MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TO THE

TWO HOUSES OF CONGRESS,

AT THE

COMMENCEMENT OF THE FIRST SESSION

OF THE

SIXTEENTH CONGRESS.

DECEMBER 7, 1819.

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MESSAGE.

FELLOW-CITIZENS OF THE SENATE,
AND OF THE HOUSE OF REPRESENTATIVES:

The public buildings being advanced to a stage that afford accommodation for Congress, I offer you my sincere congratulations on the recommencement of your duties in the Capitol.

In bringing to view the incidents most deserving attention, which have occurred since your last session, I regret to have to state, that several of our principal cities have suffered by sickness; that an unusual drought has prevailed in the middle and western states; and that a derangement has been felt in some of our moneyed institutions, which has proportionably affected their credit. I am happy, however, to have it in my power to assure you that the health of our cities is now completely restored; that the produce of the year, though less abundant than usual, will not only be amply sufficient for home consumption, but afford a large surplus, for the supply of the wants of other nations; and that the derangement in the circulating paper medium, by being left to those remedies which its obvious causes suggested, and the good sense and virtue of our fellow-citizens supplied, has diminished.

Having informed Congress, on the 27th of February last, that a treaty of amity, settlement, and limits, had been concluded, in this city, between the United States and Spain, and ratified by the competent authorities of the former, full confidence was entertained that it would have been ratified by his Catholic Majesty, with equal promptitude, and a like earnest desire to terminate, on the conditions of that treaty, the differences which had so long existed between the two countries. Every view, which the subject admitted of, was thought to have justified this conclusion. Great losses had been sustained by citizens of the United States, from Spanish cruizers, more than twenty years before, which had not been redressed. These losses had been acknowledged and provided for by a treaty, as far back as the year 1802, which, although concluded at Madrid, was not then ratified by the government of Spain, nor since, until the last year, when it was suspended by the late treaty, a more satisfactory provision to both parties, as was presumed, having been made for them. Other differences had arisen, in this long interval, affecting their highest interests, which were likewise provided for, by this last treaty. The treaty itself was formed on great consideration, and a thorough knowledge of all circumstances, the subject matter of every article having been for years under discussion, and repeated references having been made, by the Minister of Spain, to his government, on the

points respecting which the greatest difference of opinion prevailed. It was formed by a Minister duly authorized for the purpose, who had represented his government in the United States, and been employed, in this long protracted negotiation, several years; and who, it is not denied, kept strictly within the letter of his instructions. The faith of Spain was therefore pledged, under circumstances of peculiar force and solemnity, for its ratification.

On the part of the United States, this treaty was evidently acceded to in a spirit of conciliation and concession. The indemnity for injuries and losses, so long before sustained, and now again acknowledged and provided for, was to be paid by them, without becoming a charge on the treasury of Spain. For territory ceded by Spain, other territory of great value, to which our claim was believed to be well founded, was ceded by the United States, and in a quarter more interesting to her. This cession was, nevertheless, received as the means of indemnifying our citizens, in a considerable sum, the presumed amount of their losses. Other considerations, of great weight urged the cession of this territory by Spain. It was surrounded by the territories of the United States, on every side, except on that of the ocean. Spain had lost her authority over it, and, falling into the hands of adventurers connected with the savages, it was made the means of unceasing annoyance and injury to our Union, in many of its most essential interests. By this cession, then, Spain ceded a territory, in reality, of no value to her, and obtained concessions of the highest importance, by the settlement of long standing differences with the United States, affecting their respective claims and limits, and likewise relieved herself from the obligation of a treaty, relating to it, which she had failed to fulfil, and also from the responsibility incident to the most flagrant and pernicious abuses of her rights, where she could not support her authority.

It being known that the treaty was formed under these circumstances, not a doubt was entertained that his Catholic Majesty would have ratified it without delay. I regret to have to state, that this reasonable expectation has been disappointed; that the treaty was not ratified within the time stipulated, and has not since been ratified. As it is important that the nature and character of this unexpected occurrence should be distinctly understood, I think it my duty to communicate to you all the facts and circumstances, in my possession, relating to it.

Anxious to prevent all future disagreement with Spain, by giving the most prompt effect to the treaty, which had been thus concluded, and, particularly, by the establishment of a government in Florida, which should preserve order there, the minister of the United States, who had been recently appointed to his Catholic Majesty, and to whom the ratification, by his government, had been committed, to be exchanged for that of Spain, was instructed to transmit the latter to the Department of State, as soon as obtained, by a public ship, subjected to his order for the purpose. Unexpected delay occurring in the ratification, by Spain, he requested to be informed of the cause:

It was stated, in reply. that the great importance of the subject, and a desire to obtain explanations on certain points, which were not specified, had produced the delay, and that an Envoy would be despatched to the United States, to obtain such explanations of this government. The Minister of the United States offered to give full explanation on any point on which it might be desired; which proposal was declined. Having communicated this result to the Department of State, in August last, he was instructed, notwithstanding the disappointment and surprise which it produced, to inform the government of Spain, that, if the treaty should be ratified, and transmitted here, at any time before the meeting of Congress, it would be received, and have the same effect as if it had been ratified in due time. This order was executed; the authorised communication was made to the government of Spain, and by its answer, which has just been received, we are officially made acquainted, for the first time, with the causes which have prevented the ratification of the treaty, by his Catholic Majesty. It is alleged by the Minister of Spain, that this government had attempted to alter one of the principal articles of the treaty, by a declaration, which the Minister of the United States had been ordered to present, when he should deliver the ratification by his government, in exchange for that of Spain, and of which he gave notice, explanatory of the sense in which that article was understood. It is further alleged that this government had recently tolerated, or protected, an expedition from the United States, against the province of Texas. These two imputed acts are stated as the reasons which have induced his Catholic Majesty to withhold his ratification from the treaty, to obtain explanations, respecting which, it is repeated, that an envoy would be forthwith despatched to the United States. How far these allegations will justify the conduct of the government of Spain, will appear, on a view of the following facts, and the evidence which supports them.

It will be seen, by the documents transmitted herewith, that the declaration mentioned relates to a clause in the 8th article, concerning certain grants of land, recently made by his Catholic Majesty in Florida, which, it was understood, had conveyed all the lands, which, till then, had been ungranted. It was the intention of the parties to annul these latter grants, and that clause was drawn for that express purpose, and for none other. The date of these grants was unknown, but it was understood to be posterior to that inserted in the article: Indeed, it must be obvious to all, that, if that provision in the treaty had not the effect of annulling these grants, it would be altogether nugatory. Immediately after the treaty was concluded, and ratified by this government, an intimation was received that these grants were of anterior date to that fixed on by the treaty, and that they would not, of course, be affected by it. The mere possibility of such a case, so inconsistent with the intention of the parties, and the meaning of the article, induced this government to demand an explanation on the subject, which was immediately granted, and which corresponds with this statement. With respect to the other act

alleged, that this government had tolerated, or protected an expedition against Texas, it is utterly without foundation. Every discountenance has invariably been given to any such attempt from within the limits of the United States, as is fully evinced by the acts of the government, and the proceedings of the courts. There being cause, however, to apprehend, in the course of the last summer, that some adventurers entertained views of the kind suggested, the attention of the constituted authorities in that quarter was immediately drawn to them, and it is known that the project, whatever it might be, has utterly failed.

These facts will, it is presumed, satisfy every impartial mind, that the government of Spain had no justifiable cause for declining to ratify the treaty. A treaty concluded in conformity with instructions, is obligatory, in good faith, in all its stipulations, according to the true intent and meaning of the parties. Each party is bound to ratify it. If either could set it aside, without the consent of the other, there would be no longer any rules applicable to such transactions between nations. By this proceeding, the government of Spain has rendered to the United States a new and very serious injury. It has been stated, that a Minister would be sent, to ask certain explanations of this government. But, if such were desired, why were they not asked, within the time limited for the ratification? Is it contemplated to open a new negotiation respecting any of the articles or conditions of the treaty? If that were done, to what consequences might it not lead? At what time, and in what manner, would a new negotiation terminate? By this proceeding, Spain has formed a relation between the two countries which will justify any measures on the part of the United States, which a strong sense of injury, and a proper regard for the rights and interests of the nation may dictate. In the course to be pursued, these objects should be constantly held in view, and have their due weight. Our national honor must be maintained, and a new and a distinguished proof be afforded of that regard for justice and moderation, which has invariably governed the councils of this free people. It must be obvious to all, that, if the United States had been desirous of making conquests, or had been even willing to aggrandize themselves in that way, they could have had no inducement to form this treaty. They would have much cause for gratulation, at the course which has been pursued by Spain. An ample field for ambition is opened before them. But such a career is not consistent with the principles of their government, nor the interests of the nation.

From a full view of all circumstances, it is submitted to the consideration of Congress, whether it will not be proper for the United States to carry the conditions of the treaty into effect, in the same manner as if it had been ratified by Spain; claiming, on their part, all its advantages, and yielding to Spain those secured to her. By pursuing this course, we shall rest on the sacred ground of right, sanctioned, in the most solemn manner, by Spain herself, by a treaty which she was bound to ratify, for refusing to do which she must in-

cur the censure of other nations, even those most friendly to her; while, by confining ourselves within that limit, we cannot fail to obtain their well merited approbation. We must have peace on a frontier where we have been so long disturbed, our citizens must be indemnified for losses so long since sustained, and for which indemnity has been so unjustly withheld from them. Accomplishing these great objects, we obtain all that is desirable.

But his Catholic Majesty has twice declared his determination to send a minister to the United States, to ask explanations on certain points, and to give them respecting his delay to ratify the treaty. Shall we act, by taking the ceded territory, and proceeding to execute the other conditions of the treaty, before this minister arrives and is heard? This is a case which forms a strong appeal to the candor, the magnanimity, and honor of this people. Much is due to courtesy between nations. By a short delay we shall lose nothing; for, resting on the ground of immutable truth and justice, we cannot be diverted from our purpose. It ought to be presumed that the explanations which may be given to the minister of Spain, will be satisfactory, and produce the desired result. In any event, the delay, for the purpose mentioned, being a further manifestation of the sincere desire to terminate in the most friendly manner all differences with Spain, cannot fail to be duly appreciated by his Catholic Majesty, as well as by other powers. It is submitted, therefore, whether it will not be proper to make the proposed law for carrying the conditions of the treaty into effect, should it be adopted, contingent; to suspend its operation upon the responsibility of the Executive, in such manner, as to afford an opportunity for such friendly explanations, as may be desired during the present session of Congress.

I communicate to Congress a copy of the treaty, and of the instructions to the Minister of the United States at Madrid respecting it; of his correspondence with the Minister of Spain, and, of such other documents as may be necessary to give a full view of the subject.

In the course which the Spanish government have, on this occasion, thought proper to pursue, it is satisfactory to know that they have not been countenanced by any other European power. On the contrary, the opinion and wishes, both of France and Great Britain, have not been withheld, either from the United States or from Spain; and have been unequivocal in favor of the ratification. There is also reason to believe, that the sentiments of the imperial government of Russia have been the same, and that they have also been made known to the cabinet of Madrid.

In the civil war existing between Spain and the Spanish provinces in this hemisphere, the greatest care has been taken to enforce the laws intended to preserve an impartial neutrality. Our ports have continued to be equally open to both parties, and on the same conditions; and our citizens have been equally restrained from interfering in favor of either, to the prejudice of the other. The progress of the war, however, has operated manifestly in favor of the colonies. Buenos Ayres still maintains unshaken the independence which it declared in 1816,

and has enjoyed since 1810. Like success has also lately attended Chili, and the provinces north of the La Plata, bordering on it, and likewise Venezuela.

This contest has, from its commencement, been very interesting to other powers, and to none more so than to the United States. A virtuous people may, and will, confine themselves within the limits of a strict neutrality; but it is not in their power to behold a conflict so vitally important to their neighbors, without the sensibility and sympathy which naturally belong to such a case. It has been the steady purpose of this government to prevent that feeling leading to excess, and it is very gratifying to have it in my power to state that, so strong has been the sense throughout the whole community, of what was due to the character and obligations of the nation, that very few examples of a contrary kind have occurred.

The distance of the colonies from the parent country, and the great extent of their population and resources, gave them advantages which it was anticipated at a very early period, it would be difficult for Spain to surmount. The steadiness, consistency, and success, with which they have pursued their object, as evinced more particularly by the undisturbed sovereignty which Buenos Ayres has so long enjoyed, evidently give them a strong claim to the favorable consideration of other nations. These sentiments, on the part of the United States, have not been withheld from other powers, with whom it is desirable to act in concert. Should it become manifest to the world that the efforts of Spain to subdue these provinces will be fruitless, it may be presumed that the Spanish government itself will give up the contest. In producing such a determination, it cannot be doubted that the opinion of friendly powers, who have taken no part in the controversy, will have their merited influence.

It is of the highest importance to our national character, and indispensable to the morality of our citizens, that all violations of our neutrality should be prevented. No door should be left open for the evasion of our laws; no opportunity afforded to any who may be disposed to take advantage of it, to compromit the interest or the honor of the nation. It is submitted, therefore, to the consideration of Congress, whether it may not be advisable to revise the laws, with a view to this desirable result.

It is submitted, also, whether it may not be proper to designate, by law, the several ports or places along the coast, at which, only, foreign ships of war and privateers may be admitted. The difficulty of sustaining the regulations of our commerce, and of other important interests from abuse, without such designation, furnishes a strong motive for the measure.

At the time of the negotiation for the renewal of the commercial convention, between the United States and Great Britain, a hope had been entertained that an article might have been agreed upon, mutually satisfactory to both countries, regulating, upon principles of justice and reciprocity, the commercial intercourse between the United States and the British possessions, as well in the West Indies, as

upon the continent of North America. The plenipotentiaries of the two governments not having been able to come to an agreement on this important interest, those of the United States reserved for the consideration of this government the proposals which had been presented to them, as the ultimate offer on the part of the British government, and which they were not authorized to accept. On their transmission here, they were examined with due deliberation, the result of which was a new effort to meet the views of the British government. The Minister of the United States was instructed to make a further proposal, which has not been accepted. It was, however, declined in an amicable manner. I recommend to the consideration of Congress, whether further prohibitory provisions in the laws relating to this intercourse may not be expedient. It is seen, with interest, that, although it has not been practicable, as yet, to agree in any arrangement of this important branch of their commerce, such is the disposition of the parties, that each will view any regulations which the other may make respecting it, in the most friendly light.

By the 5th article of the convention, concluded on the 20th of October, 1818, it was stipulated that the differences which had arisen between the two governments, with regard to the true intent and meaning of the fifth article of the treaty of Ghent, in relation to the carrying away, by British officers, of slaves from the United States, after the exchange of the ratifications of the treaty of peace, should be referred to some friendly sovereign or state, to be named for that purpose. The minister of the United States has been instructed to name to the British government, a foreign sovereign, the common friend to both parties, for the decision of this question. The answer of that government to the proposal, when received, will indicate the further measures to be pursued on the part of the United States.

Although the pecuniary embarrassments which affected various parts of the Union, during the latter part of the preceding year, have, during the present, been considerably augmented, and still continue to exist, the receipts into the Treasury, to the 30th of September last, have amounted to $19,000,000. After defraying the current expenses of the government, including the interest and reimbursement of the public debt, payable to that period, amounting to $18,200,000, there remained in the Treasury, on that day, more than $2,500,000, which, with the sums receivable during the remainder of the year, will exceed the current demands upon the Treasury for the same period.

The causes which have tended to diminish the public receipts, could not fail to have a corresponding effect upon the revenue, which has accrued upon imposts and tonnage, during the three first quarters of the present year; it is, however, ascertained that the duties, which have been secured during that period, exceed $18,000,000, and those of the whole year will probably amount to $23,000,000.

For the probable receipts of the next year, I refer you to the

statements which will be transmitted from the Treasury, which will enable you to judge whether further provision be necessary.

The great reduction in the price of the principal articles of domestic growth, which has occurred during the present year, and the consequent fall in the price of labor, apparently so favorable to the success of domestic manufactures, have not shielded them against other causes adverse to their prosperity. The pecuniary embarrassments which have so deeply affected the commercial interests of the nation, have been no less adverse to our manufacturing establishments in several sections of the Union. The great reduction of the currency, which the banks have been constrained to make, in order to continue specie payments, and the vitiated character of it where such reductions have not been attempted, instead of placing within the reach of these establishments the pecuniary aid necessary to avail themselves of the advantages resulting from the reduction in the prices of the raw materials, and of labour, have compelled the banks to withdraw from them a portion of the capital heretofore advanced to them. That aid, which has been refused by the banks, has not been obtained from other sources, owing to the loss of individual confidence, from the frequent failures which have recently occurred in some of our principal commercial cities.

An additional cause for the depression of these establishments may probably be found, in the pecuniary embarrassments which have recently affected those countries with which our commerce has been principally prosecuted.

Their manufactures, for the want of a ready or profitable market at home, have been shipped by the manufacturers to the United States, and, in may instances, sold at a price below their current value at the place of manufacture. Although this practice may, from its nature, be considered temporary or contingent, it is not on that account less injurious in its effects. Uniformity, in the demand and price of an article, is highly desirable to the domestic manufacturer.

It is deemed of great importance to encourage our domestic manufactures. In what manner the evils which have been adverted to may be remedied, and how far it may be practicable, in other respects, to afford to them further encouragement, paying due regard to the other great interests of the nation, is submitted to the wisdom of Congress.

The survey of the coast, for the establishment of fortifications, is now nearly completed, and considerable progress has been made in the collection of materials for the construction of fortifications in the Gulph of Mexico, and in the Chesapeake Bay. The works on the Eastern bank of the Potomac, below Alexandria, and on the Pea Patch in the Delaware, are much advanced, and it is expected that the fortifications at the Narrows, in the harbor of New-York, will be completed the present year. To derive all the advantages contemplated from these fortifications, it was necessary that they should be judiciously posted, and constructed with a view to permanence. The progress, hitherto, has therefore been slow; but, as the difficulties, in parts heretofore the least explored and known, are surmount-

ed, it will, in future, be more rapid. As soon as the survey of the coast is completed, which, it is expected, will be done early in the next spring, the engineers employed in it will proceed to examine, for like purposes, the northern and north-western frontiers.

The troops, intended to occupy a station at the mouth of the St. Peters, on the Mississippi, have established themselves there, and those who were ordered to the mouth of the Yellow Stone, on the Missouri, have ascended that river to the Council Bluff, where they will remain until the next spring, when they will proceed to the place of their destination. I have the satisfaction to state, that this measure has been executed in amity with the Indian tribes, and that it promises to produce, in regard to them, all the advantages which were contemplated by it.

Much progress has likewise been made in the construction of ships of war, and in the collection of timber and other materials for ship building. It is not doubted that our navy will soon be augmented to the number, and placed, in all respects, on the footing, provided for by law.

The board, consisting of engineers and naval officers, have not yet made their final report, of sites for two naval depots, as instructed, according to the resolutions of March 18th, and April 20th, 1818, but they have examined the coast therein designated, and their report is expected in the next month.

For the protection of our commerce in the Mediterranean; along the Southern Atlantic coast; in the Pacific and Indian ocean; it has been found necessary to maintain a strong naval force, which it seems proper for the present to continue. There is much reason to believe, that, if any portion of the squadron heretofore stationed in the Mediterranean should be withdrawn, our intercourse with the powers bordering on that sea would be much interrupted, if not altogether destroyed. Such, too, has been the growth of a spirit of piracy, in the other quarters mentioned, by adventurers from every country, in abuse of the friendly flags which they have assumed, that, not to protect our commerce there, would be to abandon it as a prey to their rapacity. Due attention has likewise been paid to the suppression of the slave trade, in compliance with a law of the last session. Orders have been given to the commanders of all our public ships to seize all vessels navigated under our flag, engaged in that trade, and to bring them in, to be proceeded against, in the manner prescribed by that law. It is hoped that these vigorous measures, supported by like acts by other nations, will soon terminate a commerce so disgraceful to the civilized world.

In the execution of the duty imposed by these acts, and of a high trust connected with it, it is with deep regret I have to state the loss which has been sustained by the death of Commodore Perry. His gallantry, in a brilliant exploit, in the late war, added to the renown of his country. His death is deplored as a national misfortune.

JAMES MONROE.

Washington, December 7, 1819.

DOCUMENTS,

TRANSMITTED TO BOTH HOUSES OF CONGRESS, WITH THE MESSAGE OF THE PRESIDENT, OF 7th DECEMBER, 1819.

No. 1.

1. Extract of a letter from Mr. Erving, Minister Plenipotentiary from the United States, in Spain, to Mr. Adams; dated, Madrid, 10th February, 1818.
2. From the same to Mr. Adams, Secretary of State; dated, Madrid, 26th February, 1818.
3. Paper A. in Spanish.
4. do. A. Translation.
5. Paper B. in Spanish.
6. do. B. Translation.
7. From Mr. Erving to Mr. Adams, dated, Madrid, April 5, 1818.
8. In Spanish.
9. Translation.
10. From Mr. Erving to Mr. Adams; dated, Madrid, 26th April, 1818.
11. From the same, to the same; dated, Madrid, May 14, 1818.
12. From the same, to the same; dated, Madrid, 12th June, 1818.
13. From the same, to the same; dated, Madrid, 22d July, 1818.
14. Copy, translation from the French, Mr. Erving to Mr. Pizarro, private; dated, Madrid, July 18, 1818.
15. Reply of Mr. Pizarro; copy, translated from the French.
16. From Mr. Erving to Mr. Adams; dated, Madrid, September 20, 1818.
17. In Spanish.
18. Translation.
19. Extract from the propositions of Don Luis de Onis, to the Secretary of State, made 24th October, 1818—Translation.
20. Extract of a letter from the Secretary of State to Don Luis de Onis; dated Department of State, Washington, 31st October, 1818.
21. Extract of a letter from Don Luis de Onis, to the Secretary of State; dated, Washington, 16th November, 1818.—Translation.

Extract of a letter from Mr. Erving, Minister Plenipotentiary from the United States in Spain, to Mr. Adams, dated Madrid, 10th February, 1818.

"The King has lately made large grants of land in East Florida, to several of his favorites, and I am credibly informed that, within these few days, he has, by a sweeping grant, given all the remainder to the Duke of Alagon, captain of his guards, and the Count of Punon Rostro, one of his chamberlains. This is, perhaps, his mode of preparing for a *cheap* cession of the territory to the United States."

From the same to Mr. Adams, Secretary of State, dated Madrid, 26th February, 1818.

EXTRACT.

"The King has lately made large grants of land in the Floridas to several of his favorite servants. The enclosed papers, A and B, have been furnished to me as extracts from the deeds to the principal grantees—the Duke of Alagon, captain of the body guards, and the Count of Punon Rostro, one of the chamberlains. Mr. Vargas, treasurer of the household, has another grant. In fine, I am led to believe that His Majesty has given away the whole of the lands in that quarter, which had not been previously granted."

PAPER A.

Al Duque de Alagon.

El terreno inculto que no se halla cedido en la Florida Oriental, situado entre las margenes de los rios Santa Luisa y San Juan, hasta sus embocaduras en el mar y la costa del Golfo de la Florida e islas adjacentes, con la embocadura del rio Hijuelos por el grado 26 de latitud, siguiendo su orilla izquierda hasta su nacimiento, tirando una linea a la laguna de macao, bajando luego por el camino del rio de San Juan, hasta la laguna Valdes, cortando por otra linea desde el

extremo norte de este laguna, hasta el nacimiento del rio Amanima, siguiendo la orilla derecha hasta su embocadura por los 28 y 25 de latitud y continuando por la costa del mar con todas sus islas adjacentes hasta la embocadura del rio Hijuelos.

A.—[TRANSLATION.]

To the Duke of Alagon.

All the uncultivated land not ceded in East Florida, which lies between the banks of the river Saint Luisa and that of Saint John, as far as the mouths by which they empty themselves into the Sea, and the coast of the Gulf of Florida, and the adjacent islands, with the mouth of the river Hijuelos, in 26th degree of latitude, following the left bank up to its source, drawing a line from Lake Macao, and then descending along the road from the river St. John to the Lake Valdes, crossing another line from the extreme north of said Lake to the source of the river Amurama, following its right bank as far as its mouth, in the 28th and 25th degrees of latitude, and running along the sea coast, with all the adjacent islands, up to the mouth of the river Hijuelos.

PAPER B.

Al Conde de Punon Rostro.

Todas las tierras incultas que no se hallen cedidas en la Florida, comprendidas entre el rio Perdido al occidente del Golfo de Mexico y los rios Amaruja y el San Juan desde Popa hasta su desague el mar, por la parte del Oriente; por el norte, la linea de demarcacion con los Estados-Unidos, y al sur por el Golfo de Mexico, incluyendo las islas desiertas en la costa.

[TRANSLATION OF THE FOREGOING.]

To the Count of Punon Rostro.

All the uncultivated land not ceded in Florida, comprehended between the river Perdido to the west of the Gulf of Mexico,

and the rivers Amaruja and Saint John, from Popa, until they empty themselves into the Sea on the eastern side; by the north, the line of demarcation with the United States, and on the south by the Gulf of Mexico, including the desert islands on the coast.

From Mr. Erving to Mr. Adams, dated Madrid, 5th April, 1818.

EXTRACT.

"In my despatch No. 60, [of February 26] I mentioned the grants of lands in Florida lately made by the King of Spain to several of his courtiers, and enclosed extracts from those in favor of the Duke of Alagon and the Count of Punon Rostro. I have just now obtained a copy of that in favor of Don Pedro de Vargas, treasurer of the household, and it is herewith transmitted. I hope soon to be able to obtain full copies of the grants to Alagon and Punon Rostro."

EL REY:

Mi governador y Capitan General de la isla de Cuba y su distrito. Con fecha de veinte y Cinco de Enero ultimo mè hizo presente Don Pedro Vargas lo que Sigue. Senor. Don Pedro de Vargas Cavallero de la Real orden militar de Alcantara, tesorero general de la Real Casa y patrimonio de V. M. con el mas profundo respeto a V. R. P. expone que ha yuna porcion de tierras vacantes y despobladas en el territorio de las Floridas y deseando què si V. M. se digna premiar sus tales quales servicios, y las pruebas de lealdad que tiene dadas sea sin el mas minimo gravamen del erario en perjuicio de tercero como puede verificarse en el dia con algunas tierras de acquel pais. A. V. M. suplica que por un efecto de su soverana piedad se digna concederle la propiedad del terreno que esta comprendido en la siguiente demarcacion, á saber, desde la embocadura del rio Perdido y su Vahia en el Golfo de Mexico, siguiendo la costa del mar subir por la Bahia del buen Socorro y de la Mobila, continuar por el rio Mobila hasta tocar la linéa norte de los Estados-Unidos y bajar por ella con una recta al origen del rio Perdido, y siguiendo por el rio de la Mobila abajo y la Bahia de su nombre volver por la costa del mar hacia al Oeste con todas las cabas, entrados, y islas adjacentes que pertenecen a la Espana en la epocha presente, hasta llegar a la linea del o este de los Estados-Unidos y volver por la del norte comprendiendo todas las tierras valdias què corresponden o

pueden corresponder á la Espana y estan en disputa ó reclamacion con los Estados-Unidos segun el tenor de los tratados y asi mismo el terreno valdio y no cedido a otro particular que hay entre él rio Hijuelos en la Florida Oriental y el rio Santa Lucia tirando una linea desde el nacimiento del uno al del otro y siguiendo por la costa del Golfo de Mexico desde la embocadura del rio Hijuelos hasta la punta de Tancha y doblando esta por la costa del Golfo de Florida hasta la embocadura del rio de Santa Lucia con las islas y Cayos adjacentes. Enterado del contemido de esta exposicion y atendiendo al merito de este sujeto y a su acreditado zelo por mi real servicio como tambien a las ventajas que resultaran al estado dé la poblacion de los citados paises, he tenido a bien acceder a la gracia que solicita en quanto no se oponga a las leyes de estos mis reynos, y communicado al mio consejo de las Indias para su cumplimiento en real orden dada de Febrero proximo pasado. En su consequencia os mando y encargo por esta mi real cedula que con arreglo a las leyes que rigen en la materia y sin perjuicio de tercero auxilieis eficazmente la execucion de la expresada gracia tomando todas las disposiciones que se dirijan a su debido efecto, como tambien al aumento de poblacion, agricultura y commercio de las referidas possessiones, dando cuenta sucesivamente de su progreso, que asi es mi voluntad, y que de esta cedula se tome razon en la contaduria general de las Indias. Fecha en Palacio a diez de marzo de mil ochocientos diez y ocho. YO EL REY. Esta rubricado por mandado del Rey, nuestro Senor. ESTEVAN VAREA. Derechos doscientos y quarenta, Rs. pta. Siguen quatro rubricas. Al governador y Capitan General de la isla de Cuba y su distrito para que disponga lo conveniente a que tenga efecto la gracia concedida a Don Pedro de Vargas de varios terrenos situados en las Floridas con lo demas que se expresa. Corr'da. Sigue una rubrica. Tomase Razon en la contaduria general de America Septentrional. Madrid, trece de Marzo de mil ochocientos diez y ocho. Josef de Texada. Esta rubricado. Derechos gratis. Hay una rubrica.

[TRANSLATION.]

THE KING:

My Governor and Captain General of the Island of Cuba and its district, under date of the 25th of January last, Don Pedro de Vargas, manifested to me as follows. Sire: Don Pedro de Vargas, knight of the royal military order of Alcantara, treasurer general of the royal house and patrimony of your majesty; with the most profound respect, at your royal feet, exposes—that there is a quantity of vacant and unpeopled land in the territory of the Floridas, and desiring that if your Majesty shall deign to reward his passable servi-

ces, and the proofs which he has given of his loyalty, it may be without the least burthen on the public treasury, or in prejudice of any third person, as may be done at present by some lands of that country, he beseeches your majesty that, by an effect of your sovereign goodness, you would deign to grant to him the property of the land which lies comprized within the following limits: that is to say; from the mouth of the river "Perdido," and its bay in the Gulf of Mexico, following the sea coast, and ascending by the [rivers] of "Buen Socorro" and of "Mobile," continuing along the "Mobile" till it touches the northern line of the United States, and descending by that in a right line to the source of the river "Perdido," and following the river "Mobile" in its lower part, and the bay of that name, returns by the sea coast towards the west; comprehending all the creeks, entries, and islands, adjacent, which actually belong to Spain, till it reaches the west line of the United States, then, returning by their northern line, comprehending all the waste lands which belong, or may belong, to Spain, and are in dispute or reclamation with the United States, according to the tenor of the treaties, and, also, all the waste land not ceded to any other individual, which is between the river "Hipuelos," in East Florida, and the river "San Lucia," drawing a line from the source of one river to the source of the other, and following, by the coast of the Gulph of Mexico, from the mouth of the "Hipuelos" to the point of "Tancha," and doubling this, by the coast of the Gulph of Florida, to the mouth of the river "Santa Lucia," with the islands, &c. adjacent.

Considering the contents of this exposition, and attending to the merit of the individual, and his accredited zeal for my Royal service, as also to the advantages to result to the State from peopling the said countries, I have thought proper to accede to the favor which he solicits, in as far as it be not opposed to the laws of these my dominions, and communicated it to my Council of Indies, for its fulfilment, in a Royal order of 2d of February last. Consequently, I command and charge you, by this, my Royal "cedula," (scroll) that, conforming to the laws which regulate in these affairs, and without prejudice to third persons, that you efficaciously aid the execution of the said grant, or favor, taking all the measures which may conduce to its due effect, as also to the augmentation of the population, agriculture, and commerce of the aforesaid possessions, giving account, from time to time, of the progress made; for this is my will, and that due notice shall be taken of this "cedula," in the Accountant-General's Department of the Indies. Dated in Palace, 10 March, 1818. I, the King. It is rubricated by order of the King, our Lord. Estavan Varea. It is rubricated—fees 240 reales of plate. [Here follows four signatures.] Addressed

To the Governor and Captain-General of the Island of Cuba, and its District, that he may do what is suitable, to the end that the favor granted to Don Pedro de Varegas, of various lands, situated in the Floridas, and other things therein mentioned, may have effect.

Corr'da. [Here follows a signature.] Taken notice of this in the Accountant-General's of the Indies' Department. Madrid, 13th March, 1818. Josef de Texada. It is rubricated—fees, gratis. [Here is another signature.]

From Mr. Erving to Mr. Adams, dated Madrid, 26th April, 1818.

EXTRACT.

"I perceive that Mr. Pizarro would be very glad to terminate it [the negociation] here. In the mean time, I shall continue to work with him, to the end that his communications to Mr. Onis may be made as favorable as possible to a prompt adjustment of it at Washington. In this view, I asked him yesterday what had been said respect ng Florida. He answered vaguely; but I perceived that there was some question of passing it to the United States, in compensation for the claims. I therefore begged him to prepare, in his instructions to Mr. Onis, for a difficulty which must certainly arise, if any "transaction" of that kind should be proposed; that the claims in question would probably be liquidated by the United States, in such form, by commission or otherwise, as might be most convenient to themselves; but that, finally, they must be paid out of the sale of the lands. Now, the King had lately given all those lands away, (as I had duly informed my government;) to complete the "transaction," it would, therefore, be absolutely necessary that the whole of those grants should be cancelled. Mr. Pizarro here held me a long discourse, about sovereignty, territorial property, &c. &c. I told him that we had no difference of opinion about those distinctions, and the other matter connected with them, but that his error was in supposing that we meant to pay for the sovereignty only. We did not estimate that so highly as he imagined; I enlarged very much upon whatever relates to these points, and brought him to consent that these grants *might* be cancelled, and indemnity given to the grantees in New Spain, or elsewhere: I say "brought him to consent"—I mean that he said enough to convince me that there will be no difficulty on this head. I am not so certain that I have induced him to send, by this courier, such instructions on it to Mr. Onis, as may render another reference to his government unnecessary; but I propose to see him again to-morrow, and to re-urge the matter."

From the same to the same, dated Madrid, May 14, 1818.

EXTRACT.

In my last private letter (which was dated April 26,) I related to you what passed between Mr. Pizarro and myself, upon the sub-

ject of the grants of lands in Floridas, lately made by the King, and I mentioned, that I should see him the day following, and endeavor to press my opinion on that point, in such way, as, if possible, to obtain that he might in advance instruct Mr. Onis in conformity to it. I saw him on the 27th, as I proposed, before the departure of his courier; whether I produced the desired effect, or not, I cannot positively say, but immediately after, he wrote to the council of the Indies, in consequence of which, the council sent orders to the Duke of Alagon, and the Count de Punon Rostro, directing them not to make sales of the lands granted to them: this fact, which I had received through a private channel, I ascertained yesterday in conversation with Mr. Pizarro. I cannot find that the council has written to the other grantee, Vargas, but Mr. Pizarro said that it should have done so; be that as it may, all sales made by the grantees are, ab initio, void, by the laws of Indies; there are obligations, also, of a very onerous kind, imposed by those laws, on all grantees, calculated in fine to produce the objects which such grants have in view, viz. the population and cultivation of the territory. Obligations, which grantees of large tracts (under a prohibition to make sale,) cannot possibly fulfil; less of all, such grantees as these, who, besides not having a cent, are overwhelmed with debt.

From the same to the same, dated Madrid, 12th June, 1818.

EXTRACT.

"He, Mr. Pizarro, then entered into the principal matters in question, and, firstly, spoke of the limits on the side of Florida. He concluded this subject, by saying, that, though the King, with a desire to accommodate himself to the views of the United States, had concluded to make the cession, and to make it as valuable as possible to the United States, as I had seen in the promptitude with which he had acted on my suggestion, and given orders to thd council of Indies, relative to the late grants, (as particularly communicated to you in my private letters of May 14,) yet his Majesty was fully aware, that the value of the public lands in the territory to be ceded would be infinitely beyond what the United States could demand under the head of indemnities; hence, it was reasonable to expect, that the difference should be made up to him by concessions on the other side."

From the same to the same, dated Madrid, 22d July, 1818.

EXTRACT.

"The convention had scarcely been ratified, when I was alarmed by information, which I received from a good source, that the King

had rescinded the prohibition placed on the late grantees of land in Florida, as communicated to you by my private letter of May 14. On this occasion I wrote a confidential note to Mr. Pizarro, pointing out the evil to result from such a procedure. He replied to me in a way to tranquilize me, and to confirm my opinion of his good faith. Copies of that correspondence are herewith enclosed."

[COPY.—TRANSLATED FROM THE FRENCH.]

Mr. Erving to Mr. Pizarro.—Private.

MADRID, JULY 18, 1818.

Your Excellency will recollect, that Messrs. Alagon, Punon Rostro, and Vargas, were placed by an office from the Department of Indies, under certain prohibitions, relative to the lands given to them by the King; *those prohibitions were considered by you and by me, as annulling the grants*, on the importance of this measure we are already agreed—now I am informed, that Mr. Vargas has received another office from the same Department, (Indies,) by which office, the difficulty with regard to him is removed, that is, he is actually free to sell the lands in question, or to profit of them, (always in conformity to the laws,) as may best suit him. I know not whether Messrs. Alagon and Punon Rostro have received similar offices: it is to be presumed. This news alarms me, because, I foresee that this transaction will throw new difficulties in the way of the negociation at Washington. It is in vain to expect that we should arrive at a state of harmony, without a transaction which shall embrace all the points in discussion: the cession of Florida must make, necessarily, an article in this transaction, and it is quite certain that the United States, in such case, cannot receive Florida as indemnity for its reclamations, if all the cessions to individuals, since the date of the convention, (1802,) are not annulled; according to a statement which I have just received, through an indirect channel, from Philadelphia, these reclamations may amount to the enormous sum of twenty-five millions of piastres.

The office written to Mr. Vargas, is, I am persuaded, unknown to you, and cannot have resulted from our late accord, relative to the convention, but your Excellency will instantly perceive, that it will take that character or appearance, and do infinite mischief. I have already informed my government of what has passed between your Excellency and me, relative to the affair of Messrs. Alagon, & co. Ought I at present to think that every thing is changed since the ratification? I can not too much lament the results. I yet hope that I may have been badly informed, relative to the fact in question, but I have

my information from a person who is interested with Vargas, one to whom he had ceded a portion of his interest in the land, before he received the first office: be it as it may, knowing your Excellency is in good faith, and that the affair is worthy of your attention, I have thought it my duty to expose it to you. Yours, with much respect and esteem.

[Signed,] GEORGE W. ERVING.

[COPY.—TRANSLATED FROM THE FRENCH.]

Reply of Mr. Pizarro.

SIR: I have just received your esteemed letter, which you addressed to me under yesterday's date, communicating to me your apprehensions respecting the alienation of the lands in Florida, granted to several individuals. *I repeat to you all that I have said on this subject*, consequently you may be tranquil, and I flatter myself that nothing will happen which can injure the negociations with the government of the United States, which ought to have been persuaded, long since, of the sincerity which directs the march and policy of the Spanish government, and of its earnest desire of a happy termination of all the points in discussion, by means of a friendly arrangement.

I renew to you, &c.

[Signed,] JOSE PIZARRO.

Sacedon, 19th July, 1818.

From Mr. Erving to Mr. Adams, dated

MADRID, SEPTEMBER 20th, 1818.

[EXTRACT.]

"The paper herewith enclosed is copy of the King of Spain's grant of lands to the Count of Punon Rostro."

EL REY.

Mi Governador de las Floridas, El Brigadier, Conde de Punonrostro me hizo presente en exposicion de tres de Noviembre del ano ultimo lo que sigue. Senor. El Brigadier Conde de Punon Rostro, Grande de Espana de primera Clase y nuestro gentil hombre de Camara con exercio, &c. &c. P. A. L. R. P. de V. M. con el mas profundo respeto expone. Que movido del anhelo de procurar por todas los medios posibles el hacer productible parte de los numerosos ter-

renos despoblados é incultos que V. M. tiene en las Americas, y que por su feracidad prometen las mayores ventajas, tanto al que expone, como al Estado si llega á verificarse, como lo espera, el noble proyecto que anima al exponente de convertir una pequena parte de aquellos desiertos en morada de habitantes pacificos christianos é industriosos que aumentando la poblacion de vuestros Reynos, fomenten la agricultura y el commercio y por consiquiente hagan immensos los ingresos de vuestro Rl. Erario. Esta impresa dirigida por persona que al conocimiento del pays reune las circunstancias de poder comparar los progresos que han hecho por este medio otras naciones, coma la de los Estados Unidos que en una epoca muy limitada ha elevado su poder á un grado extraordinario, distinguiendose la Mobila, adjacente á la Florida que en los seis anos ultimos aprovechandose de la emigracion se ha convertido de un pays inculto, y desierto en una provincia rica y comerciante cultivada y poblada con mas de trescientos mil habitantes: Esto mismo debe suceder á la Florida en el corto tiempo de 18 ó 20, anos, si se adoptan las medidas conducentes â ello y si al exemplo del exponente abandonan otros la apatia, y se dedican á labrar su fortuna individual, y por consiguiente la del Estado Confiado pues en lo recomendable de este empresa, en los vivos deseos que animan á V. M. por la prosperidad de la nacion y en los servicios y sacrificios del exponente, se atreve a suplicar a V. M. que en remuneracion de ellos se digne concederle en plena propiedad y con arreglo á las leyes que rigen en la materia todas las tierras incultas que no se hallan cedidas en la Florida comprendidas entre il rio Perdido al occidente del Golfo de Mexico, y los rios Amusafa, y el San Juan desde Popa hasta su desaque en el mar por la parte de oriente, por el norte la linea de demarcacion con los Estados Unidos y al sur por el Golfo de Mexico, incluyendo las islas desiertas en la costa. Por tanto a V. M. rendidamente suplica, que en atencion á lo expuesto, y a las indudables ventajas que resultan a la nacion, se sirva acceder á esta solicitud y mandar al mismo tiempo se comuniquen las correspondientes ordenes a las autoridades del Pays, previniendoles presten al exponente todos los auxilios y proteccion necesaria, asi para la designacion de los terrenos como para llevar á efecto la empresa en todas sus partes: gracia que espera de la munificencia de V. M. Enterado del contenido de Esta exposicion y atendiendo al distinguido merito de esto sugeto, y á su acreditado zelo por mi real servicio, como tambien á las ventajas que resultaran al Estado del aumento de poblacion en los citados payses que pretende, he tenido á bien acceder á la gracia que solicita en quanto no se oponga á las leyes de esos mis reynos y communicarlo á mi consejo de las Indias para su execucion en real orden de 17 Deciembre del referido ano. En su consequencia os mando y encargo por esta mi real cedula que con arreglo â las leyes que rigen en la materia auxilieis eficazmente la execucion de la expresada gracia, tomando todas las disposiciones que se dirijan á su devido efecto, sin perjuicio de tercero, y para que el expresado Conde de Punonrostro pueda desde luego poner en execucion su designio, conforme en todo con mis bene-

ficos deseos, en obsequio de la agricultura y commercio de dichas posesiones que claman por una poblacion proporcionada á la Feracidad de su suelo, y á la defensa y seguridad de las costas, dando cuenta successivamente de su progreso, que asi es mi voluntad; y que de esta cedula se tome razon en la contaduria General de Indias.

Fecha en Palacio, á 6 de Febrero de 1818. YO EL REY. Por mandado de Rey Mo. Sor. ESTEVAN VAREA Gubernador de las Floridas para que disponga lo conveniente á que tenga efecto la gracia concedida al Brigadier Conde de Punon Rostro, de varios terrenos situados en la Florida occidental con lo demas que expresa.

CORR'DA.

Tomose razou en la Contaduria General de la America Septentrional. Madrid, trece de marzo de mil ochocientos diez y ocho.

JOSEF de TEJADA.

[TRANSLATION.]

THE KING.

My Governor of the Floridas, Brigadier the Count de Punonrostro, submitted to me, on the third of November last, what follows:

"SIR: The Brigadier, Count de Punonrostro, Grandee of Spain of the first class, and your gentleman of the Bed Chamber in actual attendance, &c. &c. with the most profound respect, submits to your majesty: That, prompted by the desire of promoting, by all possible means, the improvement of the extensive waste and unsettled lands possessed by Y. M. in the Americas, which, by their fertility, offer the greatest advantages, not only to your memorialist, but to the state, provided due effect, as is hoped, be given to the noble project formed by your Majesty's memorialist, of converting a small portion of those deserts into the abode of peaceable christian inhabitants, whose industry will increase the population of your kingdoms, promote agriculture and commerce, and thereby add immensely to your royal revenues. This enterprise should be conducted by a person, [who,] with a knowledge of the country, would combine the intelligence necessary for comparing the progress made by other nations in similar situations, and particularly by the United States, which, within a very recent period, have advanced their power to an extraordinary height, and especially in the instance of the Mobile country, adjoining Florida, which, in the last six years, has received such an influx of emigrants, as to be converted from a desert waste, into a rich commercial province, highly improved and peopled with more than three hundred thousand souls. A similar change would be effected in Florida within eighteen or twenty years, by the adoption of judicious arrangements, and by those exertions which your Majesty's memo-

rialist proposes to employ for the promotion of his personal interest, and consequently that of the state. Relying on the merits of the case, and the lively interest felt by your Majesty in the national prosperity, and in the services and sacrifices of your Majesty's memorialist, he humbly requests your Majesty, that, taking them into consideration, you would be graciously pleased to grant and cede to him, in full right and property, and the mode and manner required by law, all the waste lands not heretofore ceded in Florida, lying between the river Perdido, westward of the Gulf of Mexico, and the rivers Amusafa, and St. Johns, from Popa to the point where it empties into the ocean, for the eastern limit; and for the northern, the boundary line of the United States; and, to the south, by the Gulf of Mexico, including the desert islands on the coast. He therefore humbly prays, in consideration of the premises, and the unquestionable advantages to be derived by the nation, your Majesty will be pleased to grant this his petition; and, thereupon, direct the necessary orders to be given to the local authorities to afford him all due aid and protection, as well in designating the territory referred to, as in giving full effect to the whole enterprize. All which he hopes from the munificence of your Majesty."

Having taken the premises into consideration, and bearing in mind the distinguished merits of the memorialist and his signal zeal for my royal service, as well as the benefits to be derived by the state from an increase of population in the countries, the cession whereof he has solicited, I have judged fit to grant to him the same, in so far as is conformable to the laws of these my kingdoms, and to make it known to my council of the Indies, for its due execution, by a royal order of the 17th December, in the year aforementioned; wherefore, I charge and command you, by this, my royal cedula, with due observance of the laws to such cases pertaining, to give full and effectual aid to the execution of the said cession, taking all requisite measures for its accomplishment, without injury to any third party, and to the end, that the said Count of Punonrostro may forthwith carry his plans into execution, in conformity with my beneficent desires in favor of the agriculture and commerce of the said territories, which require a population proportioned to the fertility of the soil, and the defence and security of the coasts, he giving regular accounts of his proceedings, for such is my will; and, that due note be taken of the present cedula in the office of the accountant general of the Indies. Done at the Palace, the 6th of February, 1818.

I, THE KING.

By command of the King, our Lord,
ESTEVAN VAREA.

To the Governor of the Floridas:—

That he may take the necessary measures to give due effect to the grant in favor of the Count Punonrostro, of a tract of country, situate in West Florida, as above specified.

CORR'DA.

Duly noted in the office of the Accountant General of North America.—Madrid, March 13, 1818.

JOSEF DE TEJADA.

Extract from the propositions of Don Luis de Onis to the Secretary of State, made 24th October, 1818.

[TRANSLATION.]

"2. His Catholic Majesty, to give an eminent proof of his generosity, and of the desire which animates him to strengthen the ties of friendship and of good understanding with the United States, and to put an end to the differences which now exist between the two governments, cedes to them, in full property and sovereignty, the provinces of East and West Florida, with all their towns and forts, such as they were ceded by Great Britain, in 1783, and with the limits which designated them in the treaty of limits and navigation, concluded between Spain and the United States, on the 27th October, 1795: *the donations or sales of lands made by the government of His Majesty, or by legal authorities, until this time, are, nevertheless, to be recognized as valid.*"

Extract of a letter from the Secretary of State to Don Luis de Onis, dated Department of State, Washington, 31st October, 1818.

"Neither can the United States recognize, as valid, all the grants of land until this time, and at the same time renounce all their claims, and those of their citizens for damages and injuries sustained by them, and for the reparation of which, Spain is answerable to them. It is well known to you, sir, that notice has been given by the Minister of the United States in Spain, to your government, that all the grants of land lately alleged to have been made by your government, within those territories, must be cancelled, unless your government should provide some other adequate fund, from which the claims above referred to, of the United States and their citizens, may be satisfied."

"From the answer of Don José Pizarro to this notice, we have reason to expect that you will be sensible of that necessity, and that some time must be agreed upon, subsequent to which, no grant of the lands within the territories in question shall be considered as valid."

Extract of a letter from Don Luis de Onis to the Secretary of State, dated Washington, 16th November, 1818.

[TRANSLATION.]

"My second proposal has been admitted by your government, with this modification, that all grants and sales of lands made by his Catholic Majesty, or by lawful Spanish authorities, in the Floridas, from the year 1802 to the present, shall be null and void. To this modification, in its absolute sense, I cannot assent, inasmuch as it is offensive to the dignity and impresc ip'able rights of the crown of Spain, which, as the legitimate owner of both the Floridas, had a right to dispose of those lands as it pleased. And, further, as the said modification would be productive of incalculable injury to the *bona fide* possessors, who have acquired, settled, and improved those tracts of land.

"The extent of what I can agree to is, that the late grants made by H. M. in the Floridas, since the 24th of January last, the date of my first note, announcing his Majesty's willingness to cede them to the United States, (the said grants having been made with a view to promote population, cultivation, and industry, and not with that of alienating them,) shall be declared null and void, in consideration of the grantees not having complied with the essential conditions of the cession, as has been the fact."

DOCUMENTS

TRANSMITTED TO BOTH HOUSES OF CONGRESS, WITH THE MESSAGE OF THE PRESIDENT, OF 7TH DECEMBER 1819.

No. 2.

Don Luis De Onis' Letter to the Secretary of State, dated 11th January, 1819.—Translation.

The same to the same, dated 16th January, 1819.—Translation.

The Secretary of State to Don Luis de Onis, dated 29th January, 1819.

Don Luis de Onis to the Secretary of State, dated 1st February, 1819.—Translation.

Project of an Article, describing the Western Boundary, communicated by the Secretary of State to Don Luis de Onis, 6th February, 1819.

Project of a Treaty, delivered by Don Luis de Onis to the Secretary of State, 9th February, 1819.—Translation. Sent by Don Luis de Onis.

Counter-project of a Treaty, communicated by the Secretary of State to Don Luis de Onis, the 13th February, 1819.

Paper, received by the Secretary of State, from Mr. G. Hyde de Neuville, Minister of France, dated 16th February, 1819.—Translation.

Full power of the President of the United States, to Mr. Adams, to negotiate a Treaty, dated 16th February, 1819.

Full power of the King of Spain, to Don Luis de Onis, given 10th September, 1816.—Translation.

Treaty of Amity, Settlement, and Limits, between the United States and his Catholic Majesty, concluded 22d February, 1819.

Resolution of the Senate, advising the Ratification of the Treaty, bearing date 24th February, 1819.

Ratification of the Treaty, by the President, 25th February, 1819.

General Instructions of the Secretary of State, to Mr. John Forsyth, Minister Plenipotentiary to Spain, dated 8th March, 1819.

Certificate of the Exchange of Ratifications, referred to in the preceding instructions.

The Secretary of State to Don Luis de Onis, dated 10th March, 1819.

Don Luis de Onis to the Secretary of State, dated 10th March, 1819.—Translation.

The Secretary of State to Mr. John Forsyth, dated 10th March, 1819.

Declaration, referred to in the preceding letter.

The Secretary of State to the Minister of France, dated 17th March, 1819.
The Minister of France to the Secretary of State, dated 18th March, 1819.—Translation.
Observations on the Eighth Article of the Treaty, of 22d February, 1819. Submitted to the Minister of France, 14th July, 1819.
The Secretary of State to Mr. John Forsyth, dated 18th August, 1819.
Mr. J. Forsyth to the Marquis of Casa Yrujo, dated 18th May, 1819.
The same to the same, dated 4th June, 1819.
Don Manuel Gonzales Salmon to Mr. Forsyth, dated 19th June, 1819.—Translation.
Mr. J. Forsyth to Don Man. G. Salmon, dated 21st June, 1819.
Don Manuel G. Salmon to Mr. J. Forsyth, dated 10th August, 1819.
Mr. J. Forsyth to Don Manuel G. Salmon, dated 12th August, 1819.
Don Manuel G. Salmon to Mr. J. Forsyth, dated 19th August, 1819.
Mr. John Forsyth to Don Manuel G. Salmon, dated 21st August, 1819.
The same to the Duke of San Fernando, dated 2d October, 1819.
The Duke of San Fernando to Mr. J. Forsyth, dated 8th October, 1819.

No. 3.

Extract of a Letter from Mr. Rush to the Secretary of State, dated London, 13th September, 1819.
Extract of a Letter, from the same to the same, dated 17th September, 1819.

Don Luis de Onis to the Secretary of State.

[TRANSLATION.]

SIR: I have just received a courier extraordinary of my government, and, by the despatches he has brought me, I am authorized by his majesty to give a greater extent to the proposals which I made to you, for adjusting and terminating amicably all the subjects in dispute between the two powers.

As the great difficulty which has hitherto opposed this desirable arrangement is the exact demarcation of the line which divides, or should divide, the dominions of the crown of Spain from the territory of the United States westward of the Mississippi, and, as you were pleased to state to me, in your note of the 30th of November last, that the principal motive which induced the President to withdraw the proposals which you had made to me, by his direction, was the want of instructions authorizing me to extend the boundary line to the Pacific ocean, I have the honor to inform you, that H. M. although then unacquainted with the proposals made by you to me, in your note of the 31st October, with a view to give an eminent proof of his sincere and generous friendship for this republic, has been pleased to authorize me to settle this point, and others embraced by former proposals. If the President should agree to your entering into an amicable arrangement of them; and also to modify, on his part, the proposals you have made to me, I do not doubt, that, either by correspondence or in conference, we may speedily attain the desired object: the termination of this interesting affair. I flatter myself, that the President, as well as the whole American people, cannot but fail to acknowledge, in this disposition of H. M. (before he had a knowledge of the exorbitant pretensions of your government,) the good faith and generosity of his proceeding, and to admit, that a measure at once so frank and so decided, claims a correspondent feeling on the part of this republic; the maintenance of perfect amity and good correspondence between the two powers being obviously calculated to promote the best interests of both.

In the expectation of being soon favored with the decision of the President, I beg leave to renew to you the assurances of my high respect, and I pray God to preserve you many years.

[Signed] LUIS DE ONIS.

Washington, January 11, 1819.

Don Luis De Onis to the Secretary of State.

[TRANSLATION.]

SIR: In consequence of the wish expressed by you yesterday, in the interview to which you were pleased to invite me, that I would state the proposals for which I am authorized by the fresh instructions I have received by a special messenger from my government, and relying on your assurances, that, notwithstanding the proposals you had made to me, the President would take those into consideration which I might make anew for the purpose of settling amicably all pending differences, I have the honor to confirm to you those which I made in my note of the 16th of November last, and to add thereto, that H. M. will agree that the boundary line between the two states shall extend from the source of the Missouri, westward, to the Columbia River, and, along the middle thereof, to the Pacific Ocean. If this basis should be accepted by the President, as I trust it will, inasmuch as it presents the means of realizing his great plan of extending a navigation from the Pacific to the remotest points of the Northern States and of the Ocean, and of enlarging the dominions of the Republic by the acquisition of both the Floridas, I will have no hesitation in agreeing to an arrangement honorable and satisfactory to both nations, upon the point on which we differ, relating to the indemnity claimed for the injuries resulting from the occupation of the territories of the King by the forces of this Union.

I conceive that you, as well as the President and the whole American people, cannot but see, in this evidence of the spirit of conciliation by which H. C. Majesty is actuated, a certain pledge of his desire to strengthen and cement the ties of friendship with this republic, and I trust that the answer of the President will correspond with the sacrifices made by H. M. as well with a view to the prompt satisfaction of the citizens of the United States, for whatever injuries they may have sustained, as to the complete removal of every cause of future disagreement between the two nations. But if, contrary to my expectation, this should not be the case, I shall feel a sincere regret in seeing this desirable arrangement protracted, until His Majesty, on being made acquainted with the extraordinary pretensions of your government, by the despatches of which Don Luis Noeli, the Secretary of this Legation, was the bearer, may transmit to me such orders as he may deem expedient.

I renew to you the assurances of my distinguished consideration, and I pray God to preserve you many years.

[Signed,] LUIS DE ONIS.

Washington, 16th January, 1819.

The Secretary of State to Don Luis de Onis.

DEPARTMENT OF STATE,
Washington, 29th January, 1819.

SIR: Your letter of the 16th inst. has been submitted to the consideration of the President of the United States, by whose directions I have the honor of informing you, that the proposal to draw the Western boundary line, between the United States and the Spanish Territories on this continent, from the source of the Missouri to the Columbia river, cannot be admitted. I have to add, that, for the purpose of an immediate arrangement of affairs with Spain, this government repeats the proposal contained in my letter to you, of the 31st October last,* and if you are not authorized to agree to it, we are willing to adjust the other subjects of difference, leaving that to be settled hereafter. But, if your powers are incompetent to accept either of these offers, the President thinks it useless to pursue the discussion any further, of subjects upon which there can be no hope entertained of concluding an agreement between us.

Be pleased to accept the assurance of my distinguished consideration.

[Signed] JOHN QUINCY ADAMS.

Don Luis de Onis to the Secretary of State.

[TRANSLATION.]

SIR: I have received your note of the 29th January, in which you are pleased to state to me, that, having laid before the President my note of the 16th, he has directed you to inform me that my proposal to fix the boundary between the two states, by a line from the source of the river Missouri to the Columbia, and along the course of the latter to the Pacific, is inadmissible; but that, with a view to an immediate arrangement of affairs with Spain, you repeat to me the proposal contained in your note of the 31st October last, and add, that, if I am not authorized to agree to it, we may adjust the other subjects of difference, leaving that to be settled hereafter.

My powers authorize me to adjust all such differences as his Majesty was apprized of at the date of my last despatches, which are of the 4th November. The proposal referred to by you is of the 31st October preceding, and, in all probability, no answer to it can be expected before the middle or end of March. Taking into consideration,

* Communicated to Congress, 14th December, 1818.

however, on the one hand, the earnest desire of his Catholic Majesty to terminate these matters before the rising of Congress, and thereby to avoid the further delay of a twelve-month in settling the indemnities claimed by citizens of the Union, and, on the other, the probable anxiety of your government to carry into execution the establishments contemplated in the Floridas, I am prepared to take upon myself the definitive settlement of the points in controversy, provided the President, animated by correspondent feelings, is willing to modify the proposals made to me, so as to render them consistent and compatible with the interests of both powers.

I have proved to you, in the most satisfactory manner, that neither the Red River of Natchitoches, nor the Columbia, ever formed the boundary of Louisiana; but, as you have intimated to me, that it is useless to pursue the discussion any further, I acquiesce with you therein, and I agree that, keeping out of view the rights which either power may have to the territory in dispute, we should confine ourselves to the settlement of those points which may be for the mutual interest and convenience of both.

Upon this view, therefore, of the subject, and considering that the motive for declining to admit my proposal of extending the boundary line from the Missouri to the Columbia, and along that river to the Pacific, appears to be the wish of the President to include within the limits of the Union all the branches and rivers emptying into the said river Columbia, I will adapt my proposals on this point so as fully to satisfy the demand of the United States, without losing sight of the essential object, namely: that the boundary line shall, as far as possible, be natural and clearly defined, and leave no room for dispute to the inhabitants on either side.

Having thus declared to you my readiness to meet the views of the United States, in the essential point of their demand, I have to state to you, that his Majesty is unable to agree to the admission of the Red River to its source, as proposed by you. This river rises within a few leagues of Santa Fé, the capital of New Mexico; and, as I flatter myself, the United States have no hostile intentions towards Spain, at the moment we are using all our efforts to strengthen the existing friendship between the two nations, it must be indifferent to them, to accept the Arkansas instead of the Red River as the boundary. This opinion is strengthened by the well known fact, that the intermediate space between those two rivers is so much impregnated with nitre, as scarcely to be susceptible of improvement.

In consideration of these obvious reasons, I propose to you, that drawing the boundary line from the Gulph of Mexico, by the river Sabine, as laid down by you, it shall follow the course of that river to its source; thence, by the 94th degree of longitude, to the Red River of Natchitoches, and along the same to the 95th degree; and, crossing it at that point, to run by a line due north to the Arkansas, and along it to its source; thence, by a line due west, till it strikes the source of the river St. Clemente, or Multnomah, in latitude 41 degrees,

and along that river to the Pacific Ocean.—The whole agreeably to Melish's map.

In case this basis, which not only approximates your proposals, but fulfils, in every essential point, the wishes you have stated to me, be admitted by the President, His Majesty, with a view to give the United States a more convincing proof of his generosity, and his desire to strengthen the bonds of amity with this republic, consents to relinquish the claim of indemnity for the injuries sustained by his treasury, in consequence of the invasion of the Floridas, reserving only to the inhabitants of the same their right to what may appear to be justly due to them for their losses by that event.

It is understood that the convention of 1802, lately ratified, is annulled, as it relates to the indemnity for injuries and losses claimed by the United States or their citizens, of Spain; inasmuch, as full compensation for the same is to be made to them, from the sales of the lands in the two Floridas, and of the immense possessions westward of the Mississippi, ceded by his Majesty in virtue of that treaty; and, that the United States, actuated by the most sincere desire to remove every cause of difference between the two nations in future, will take into consideration the necessity of establishing such regulations as, in their wisdom, they may deem most expedient to prevent the evasion of the laws of the republic, to the injury of the commerce of the subjects of his Catholic Majesty.

I renew to you, sir, the assurances of my distinguished consideration, and I pray God to preserve you many years.

Washington, 1st February, 1819.

[Signed] LUIS DE ONIS.

Project of an article describing the western boundary: communicated to Don Luis de Onis, by the Secretary of State, 6th February, 1819.

ARTICLE.

It is agreed that the western boundary between the United States and the territories of Spain shall be as follows:—Beginning at the mouth of the river Sabine, on the Gulph of Mexico; following the course of said river to the 32° of latitude, the eastern bank and all the islands in the river to belong to the United States, and the western bank to Spain; thence, due north, to the northernmost part of the 33° of north latitude, and until it strikes the Rio Roxo, or Red River; thence, following the course of said river, to the northernmost point of the bend, between longitude 101 and 102; thence, by the shortest line, to the southernmost point of the bend of the river Arkansaw, between the same degrees of longitude 101 and 102; thence, following

the course of the river Arkansaw, to its source, in latitude 41 north; thence, following the same parallel of latitude 41, to the South Sea. The northern banks and all the islands in the said Red and Arkansaw rivers, on the said boundary line, to belong to the United States, and their southern banks to Spain; the whole being, as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818. But, if the source of the Arkansaw river should fall south or north of latitude 41, then the line from the said source shall run due north or south, as the case may be, till it meets the said parallel of latitude, and thence as aforesaid to the South Sea. And it is further agreed, that no Spanish settlement shall be made on any part of the said Red or Arkansaw rivers, nor on any of the waters flowing into the same, nor any east of the chain of Snowy-Mountains, between the latitudes 31 and 41, inclusively; and that the navigation of said rivers shall belong exclusively to the United States forever.

Project of a treaty delivered by Don Luis de Onis to the Secretary of State, 9th February, 1819.

[Translation, sent by Don Luis de Onis.]

His Catholic Majesty and the United States of America, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty which shall designate with precision the limits of the one and the other, the settlement whereof will be productive of general advantage and reciprocal utility to both nations.

With this intention his Catholic Majesty has appointed the most excellent Don Luis de Onis, Gonzales y Vara, Lord of the town of Rayaces, perpetual Regidor of the corporation of the city of Salamanca, Knight Grand Cross of the Royal American order of Isabella the Catholic, decorated with the Lys of La Vendee, Knight Pensioner of the Royal and distinguished Spanish order of Charles the Third, Member of the Supreme Assembly of the said royal order; of the Council of his Catholic Majesty, his Secretary with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America;—and the President of the United States, with the advice and consent of their Senate, has appointed Mr. John Quincy Adams, Secretary of State of the United States. And the Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

I.

There shall be a firm and inviolable peace and sincere friendship between his Catholic Majesty, his successors and subjects, and the United States and their citizens, without exception of persons or places.

II.

His Catholic Majesty, desiring to give a distinguished proof of his friendship to the United States, cedes to them, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida, such as they were ceded to him by Great Bnitain, in 1783; and with the limits by which they are designated in the treaty of limits and navigation, concluded between Spain and the United States, on the 27th October, 1795.

III.

The adjacent islands dependent on said provinces, places, public squares, public edifices, fortifications, barracks, and other buildings which are not the property of some private individual, archives, and documents which relate directly to the property and sovereignty of said provinces, are included in this article.

IV.

That at no time whatever there may be any dispute or mistake in the boundaries which shall separate in future the territories of his Catholic Majesty and those of the United States, to the westward of the Mississippi, the two high contracting parties have agreed to fix them in the following manner:—The boundary line between the two countries shall begin on the Gulph of Mexico, at the mouth of the river Sabina in the sea; continuing north, along the middle of that river, to the 32° of latitude; thence, by a line due north, to the 33° of latitude where it strikes the Rio Roxo of Natchitoches, *Red River*, following the course of the Rio Roxo to the westward to the 100° of longitude; and 33¼° latitude, where it crosses that river; thence, by a line due north, by the said 100° of longitude from London, according to Melish's map, till it enters the river Arkansas; thence, along the middle of the Arkansas, to the 42° of latitude; thence a line shall be drawn to the westward by the same parallel of latitude to the source of the river San Clemente, or Multnomah, following the course of that river to the 43° of latitude; and thence, by a line due west, to the Pacific Ocean. All the country belonging to his Catholic Majesty included in said line to the eastward, his Majesty cedes to the United States, in full property and sovereignty, forever; as also the islands in the rivers Sabina, Red River of Natchitoches, Arkansas, and

Multnomah, that may be situated within the limits which are here pointed out; both parties to maintain the navigation of all of them free as respects the parts thereof which constitute their frontiers.

V.

To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red River, and proceed to run and mark the said line, in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree respecting the necessary articles to be furnished to these persons, and also as to their respective escorts, should such be deemed necessary.

VI.

The inhabitants of the ceded territories shall be secured in the free exercise of their religion without any restriction; and all those who may desire to remove to the Spanish dominions, shall be permitted to sell or export their effects, at any time whatever, without being subject in either case to duties.

VII.

The inhabitants of the two provinces aforesaid, and those in all the territories which his Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States as soon as possible, agreeably to the principles of the federal constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the other States.

VIII.

The territories of the two Floridas, which, at the time of the delivery which is to be made of them to the United States, should be occupied by the troops or authorities of the Republic, shall be delivered to the commissioners which his Catholic Majesty, or the Captain General of the Havanna, may send for that purpose, in order that the said territories may be delivered up in a regular manner to the commissioners or officers appointed by the United States to receive them.

IX.

All the grants of lands made by his Catholic Majesty, or by his legitimate authorities, in the aforesaid territories of the two Floridas,

and others which his Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting those grants which may have been made after the 24th January of last year, the date that the first proposals were made for the cession of these provinces, which shall be held null, in consideration of the grantees not having complied with the conditions of the cession.

X.

The two contracting parties, animated by the most sincere desire of conciliation, and with a view of eradicating all the dissentions which have existed between them, and to secure that good harmony which they desire perpetually to maintain with each other, reciprocally renounce all claims for damages, or injuries, which they themselves, as well as their respective subjects and citizens, may have suffered until the time of signing this treaty.

The renunciation of the United States will extend to all the injuries mentioned in the convention of the 11th August, 1802.

2. To all claims of prizes made by French privateers and condemned by French Consuls within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New-Orleans.

4. And to all the claims of citizens of the United States upon the government of Spain, in which the interposition of the government of the United States may have been solicited before the date of this treaty, and since the date of the convention of 1802, and which may have been made to the Department of State of this Republic, or to the Minister of the United States in Spain.

The renunciation of his Catholic Majesty extends,

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To the sums which his Catholic Majesty advanced for the return of Captain Pike, from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, fitted out and equipped at New-York.

4. To the revenue collected by the United States in the territories of Florida that have been occupied by their troops, and to the indemnities which his Catholic Majesty is entitled to, for the injuries caused to his royal crown by those invasions.

Finally; to all claims of subjects of H. C. M. upon the government of the United States, in which the interposition of H. C. Majesty's government has been solicited, before the date of this Treaty, and since the date of the Convention of 1802, or which may have been made to the Department of Foreign Affairs of H. M. or to his minister in the United States.

XI.

The Convention entered into between the two Governments on the 11th August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled in that part which relates to the payment of the injuries which the United States and their citizens claim; it being agreed, between the two high contracting parties, that these injuries shall be paid, integrally, by the United States, from the proceeds of the public or crown lands of the two Floridas and other territories, ceded by H. C. M. in this Treaty; so that both Governments consider all their claims, and those of their subjects and citizens, as cancelled from this date; excepting those claims which the citizens of the United States may have against Spanish individuals, or which the latter may have upon the citizens of this Republic.

XII.

The treaty of limits and navigation of 1795 remains confirmed in all, and each one, of its articles, excepting the 2d, 3d, 4th, 21st, and the second clause of the 22d article, which, having been altered by this Treaty, are no longer valid.

With respect to the 15th article of the same Treaty, of friendship, limits, and navigation, of 1795, in which it is stipulated, that the flag shall cover the property, the two high contracting parties agree, that this may be so understood with respect to those powers who recognize this principle; but if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose governments acknowledge this principle, and not of others.

XIII.

In order to avoid frauds, and the great evils which arise from concealing the destination of vessels, by clearing out in general terms for the West Indies, Spanish Maine, Europe, &c. the two high contracting parties have agreed, that, in future, all merchant vessels belonging to their respective subjects or citizens shall be cleared out for a specified port, either at their respective custom-houses, or in those of other powers, from whose ports said vessels may depart in continuation of their primitive voyage; or in case they should undertake a new one. And the merchant vessels of either of the two nations that, in violation of their clearances, should enter other ports without justifying the motives which induced them to it, or should be met with on the high seas by their vessels of war or privateers cleared out in violation of this article, shall be detained, proceeded against, and, upon conviction, forfeited.

XIV.

In case there shall be just cause to suspect the character of the vessels, or which should not be cleared out for a specified port, as is stipulated in the preceding article, or that the cargo belongs to enemies of either of the contracting parties, whose governments do not recognize the principle that the flag covers the property, or which shall consist of articles of contraband of war, such vessels may be detained and sent to the nearest and most convenient port to which the ship of war or privateer that may have detained such a vessel belongs, where she shall be adjudged agreeably to the law of nations, and the practice established by other maritime powers. And it is agreed that adjudication shall be had with the least delay possible; and if it shall be proved that the detention or capture was unjust, it shall not only be the duty of the tribunal where the case was tried to release the vessel and cargo, but it shall decide the corresponding indemnity for the damages and injuries that may have been sustained, to be paid by the captors, and, in their defect, by the government by whom they shall be commissioned.

XV.

Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other, shall be arrested and delivered up at the instance of the Consul, who shall prove, nevertheless, that the deserters belong to the vessels that claim them, exhibiting the document that is customary in their nation, that is to say, that the Spanish Consul in an American port shall exhibit the roll of the vessel; and the American Consul in a Spanish port the document known by the name of articles; and if the name of the deserter or deserters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

XVI.

His Catholic Majesty having condescended to make the cessions to the United States which are specified in the present treaty, in compliment to the United States, with the object of cancelling all the claims they have demanded of the Royal Crown, the United States will certify, in due form, that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain; and they will present an authentic statement of the prizes made, and of their true value, that Spain may claim from France the return of this amount.

XVII.

It being mutually advantageous to the commerce of Spain and of the United States to facilitate the communication between both nations for a limited time in the territories ceded by this treaty, until they can agree upon the regulations relating to commerce, which may be best adapted to favor the same, the two high contracting parties agree that Spanish vessels which may arrive loaded solely with the produce or manufactures of Spain, directly from the ports or colonies, shall be admitted into all the ports of the two Floridas that may be lawfully open to the trade of other nations, for the space of twelve years, without paying more duties for their produce or merchandize, nor greater tonnage duty, than what are paid by vessels of the United States.

During said time, no other nation shall be entitled to the same privileges in the ceded territories. The twelve years shall begin three months after exchanging the ratifications of the present treaty—at the expiration of said time, Spanish vessels shall be received in said territories on the same footing as the most favored nations.

XVIII.

The present treaty shall not be in force until ratified, in due form, by the contracting parties; and the ratifications shall be exchanged in six months from this time, or sooner, if possible.

In witness whereof, we, the under written Plenipotentiaries of His Catholic Majesty, and of the United States of America, have signed, by virtue of our powers, the present Treaty of friendship and limits, and have thereunto affixed our seals respectively.

Done at Washington this —— day of February, 1819.

COUNTER PROJECT OF A TREATY,

Communicated by Mr. Adams to Don Luis de Onis, the 13th of February, 1819.

The United States of America, and his Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate, with precision, the limits of their respective bordering territories in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States, and his Catholic Majesty has appointed the most excellent Lord Don Luis de Onis Gonzales Lopes y Vara, Lord

of the town of Rayaces, Perpetual Regidor of the Corporation of the City of Salamanca, Knight Grand Cross of the Royal American Order of Isabella the Catholic, decorated with the Lys of La Vendee, Knight Pensioner of the Royal and distinguished Spanish Order of Charles the Third, member of the Supreme Assembly of the said Royal Order, of the Counsel of His Catholic Majesty; his Secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

I.

There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and His Catholic Majesty, his successors, and subjects, without exception of persons or places.

II.

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent Islands, dependent on said Provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said Provinces, are included in this article. The said archives and documents shall be left in possession of the Commissaries, or officers, of the United States, duly authorized to receive them.

III.

The boundary line between the two countries, west of the Mississippi, shall begin on the Gulph of Mexico, at the mouth of the River Sabine, in the sea; continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or *Red River;* thence, following the course of the Rio Roxo, westward, to the degree of longitude 102 west from London, and twenty-five from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 41 north; and thence, by the parallel of latitude, to the South Sea; the whole being as laid down in Melish's Map of the United States, published in Philadelphia, improved to the first of January, 1818. But, if the source of the Arkansas river should be found to fall north or south of latitude 41°, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 41; and thence, along the said parallel, to the South Sea: the Sabine and the said Red and Arkansas rivers, and all

the islands in the same, throughout the course thus described, to belong to the United States; and the western bank of the Sabine, and the southern banks of the said Red and Arkansas [rivers,] throughout the line thus described, to belong to Spain. And the United States hereby cede to His Catholic Majesty all their rights, claims, and pretensions, to the territories lying west and south of the above described line; and His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions, to any territories east and north of the said line, and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

IV.

To fix this line with more precision, and to place the land marks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this Treaty, at Natchitoches, on the Red River, and proceed to run and mark the said line from the mouth of the Sabine to the Red River, and from the Red River to the River Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated; they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this Treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

V.

The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who desire to remove to the Spanish dominions shall be permitted to sell or export their effects, at any time whatever, without being subject, in either case, to duties.

VI.

The inhabitants of the territories which H. C. M. cedes to the United States by this Treaty, shall be incorporated into the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.

VII.

The officers and troops of H. C. M. in the territories hereby ceded by him to the United States, shall be withdrawn, and possession of the places occupied by them shall be given, within six months after

the ratifications of this Treaty, or sooner, if possible, by the officers of H. C. M. to the commissioners or officers of the United States, duly appointed to receive them.

VIII.

All grants of land made by or in the name of H. C. M. in the aforesaid territories, after the 24th of January, 1818, shall be held null, the conditions of the said grants not having been performed by the grantees. All grants made before that date by H. C. M. or by his legitimate authorities in the said territories, the conditions of which shall have been performed by the grantees according to the tenor of the respective grants, and none other, shall be confirmed and acknowledged as valid.

IX.

The two contracting parties reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this Treaty.

The renunciation of the United States will extend to all the injuries mentioned in the convention of 11th August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New-Orleans in 1802.

4. To all claims of citizens of the United States upon the government of Spain, arising from the unlawful seizures at sea, and from the unlawful seizure of vessels or cargoes belonging to citizens of the United States in the ports and territories of Spain or the Spanish Colonies.

The renunciation of his Catholic Majesty extends,

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To the sums which his Catholic Majesty advanced for the return of captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

Finally; to all the claims of subjects of his Catholic Majesty upon the government of the United States, in which the interposition of his Catholic Majesty's government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the department of foreign affairs of his Majesty, or to his minister in the United States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

X.

The Convention entered into between the two governments on the 11th August, 1802, the ratifications of which were exchanged on the 21st December, 1818, is annulled.

XI.

The United States, exonerating Spain from all demands in future on account of the claims of their citizens, to which the renunciations herein contained extend, undertake to make satisfaction for the same to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of these claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and, in case of the death, sickness, or necessary absence of any such commissioner, his place may be supplied by the appointment, as aforesaid, or by the President of the United States during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorised to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same; and the Spanish government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of 27th October, 1795; the said documents to be specified when demanded at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately, at their treasury, or by the creation of stock, bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States, and copies of them, or any part of them, shall be fur-

nished to the Spanish government, if required, at the demand of the Spanish minister in the United States.

XII.

The treaty of limits and navigation of 1795 remains confirmed in all, and each one, of its articles, excepting the 2d, 3d, 4th, 21st, and the second clause of the twenty second article; which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the 15th article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree, that this shall be so understood with respect to those powers who recognize this principle. But, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies, whose government acknowledge this principle, and not of others.

XIII.

Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed, that the sailors who shall desert from their vessels in the ports of the other, shall be arrested and delivered up at the instance of the consul; who shall prove, nevertheless, that the deserters belong to the vessels that claim them, exhibiting the document that is customary in their nation; that is to say: the American consul in a Spanish port shall exhibit the document known by the name of *articles*, and the Spanish consul in an American port, the roll of the vessel; and if the name of the deserter, or deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody, and be delivered to the vessel to which they shall belong.

XIV.

The United States hereby certify, that they have not received any compensation from France, for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same, in such manner as she may deem just and proper.

XV.

The present treaty shall be ratified, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner, if possible.

In witness whereof, the underwritten, plenipotentiaries of the United States of America, and of his Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement, and limits, and have thereunto affixed our seals, respectively.

Done at Washington, this——day of February, 1819.

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† *Paper received by the Secretary of State from Mr. Hyde de Neuville, 16th February, 1819.*

[TRANSLATION.]

Remarks of the Chevalier de Onis.	*Remarks of the Secretary of State.*
ARTICLE 1.	
Agreed.*	
ARTICLE 2.	
Requires a more explicit explanation.*	
ARTICLE 3.	
The Chevalier Onis requires, that the boundary between the	The Secretary of State maintains, that the United States have

† Mr. de Onis being at this time confined by indisposition, at his request Mr. Hyde de Neuville had a personal interview with the Secretary of State on the 15th of February, at which there was a full and free discussion of the project of Mr. de Onis, delivered February 9th, and of the counter project communicated by him to Mr. de Onis, February 13th. Immediately after this interview, Mr. de Neuville reduced to writing this paper, in which are noted the objections of Mr. de Onis to parts of the counter project; the replies to those objections by the Secretary of State, and the points to which both parties were agreed. He sent a copy of the paper the next morning to the Secretary of State, and another copy to Mr. de Onis. Being intended merely as a private minute, that both parties might be satisfied of the correctness in which their respective remarks were stated, it was drawn up partly in French, and partly in our own language. The passages here marked with asterisks, are in English in the original paper. The rest is translated.

The minutes upon the 8th article, compared with the draft in the project of Mr. de Onis; with that of the counter project by the Secretary of State, and with the article, as finally expressed in the treaty, fully elucidate the understanding of the parties, that the grants of land, dated before, as well as after, the 24th January, 1818, were annulled, excepting those upon which settlements had been commenced; the completion of which had been prevented by the circumstances of Spain, and the recent revolutions in Europe.

* The passages marked thus (*) are in English in the paper received from Mr. de Neuville.

two countries shall be the middle of the rivers, and that the navigation of the said rivers shall be common to both nations.

The minister of Spain agrees to the 100th degree of longitude, and to remove all difficulties, to admit the 42d instead of the 43d degree of latitude from the Arkansas to the Pacific Ocean.

ARTICLE 4.

Agreed, as proposed by the Secretary of State.

ARTICLE 5.

Agreed.

ARTICLE 6.

Agreed.

ARTICLE 7.

Agreed, with the addition that the United States shall furnish transports, and the necessary escort for conveying the aforesaid troops of His Catholic Majesty and their baggage, to the Havana.*

always intended that the property of the river should belong to them. He insists on this point, as an essential condition, as the means of avoiding all collision, and as a principle adopted henceforth by the Union, in its treaties with its neighbors. He agrees, however, that the navigation of the said rivers to the sea shall be common to both people. The Secretary of State conceives, that in this clause there is nothing humiliating to Spain, as seemed to be thought; since it is not intended to impose on her an onerous stipulation, but to fix a territorial limit, which, in fact, might be extended beyond the rivers mentioned. He considers this clause as indispensable, and as eminently calculated to preserve a good understanding between the two people.

Agreed.

Agreed.*

ARTICLE 8.

This article cannot be varied from what is contained in the Chevalier's project, as the object of the last clause therein is merely to save the honor and dignity of the sovereignty of His Catholic Majesty.*

Agreed, with the following explanation: that all grants of land, which shall not be annulled by this Convention, are valid to the same extent as they are binding on His Catholic Majesty.*

REMARKS.

The Secretary of State observed to me, that the Federal Government would, most assuredly, never entertain the idea of disturbing individuals who were vested with a bona fide title to their property; but, as a Treaty ought not to cover fraudulent practices, so, no more could be asked of the United States, than could be offered by His Catholic Majesty; that, being, in this case, substituted for His Majesty, they would scrupulously fulfil their engagements; but that more could not be expected of them.

The Secretary of State even proposes, if Mr. de Onis wishes it, that the article shall be inserted in the Treaty, as proposed by the Minister of Spain, on condition that the above explanation shall be given in the form of a note. The Federal Government, unwilling to leave any thing in a state of doubt or uncertainty, only wishes to place, on the most secure footing, whatever is just and honorable; and is, at the same time, perfectly satisfied that His Catholic Majesty neither asks nor wishes more.

ARTICLE 9.

Mr. de Onis requires that the article should run thus:

"To all claims of citizens of "the United States upon the go- "vernment of Spain, rising from "a [un] lawful seizures at sea, "and in the ports or territories "of His Catholic Majesty, in "Spain or in his Colonies"*

And the high contracting parties respectively renounce all claims to indemnities for any of the recent events, or transactions, of their respective commanders and officers in the Floridas.*

To the above claim Mr. de Onis adds, that the United States will

Agreed.*

satisfy all the just claims which the inhabitants and Spanish officers of the Floridas may have upon them in consequence of the damages they may have sustained by the operations and proceedings of the American army, as is customary with the citizens of the United States under similar circumstances.*

Agreed.*

ARTICLE 10.

Agreed, as it is proposed by the Secretary of State.*

Agreed.*

ARTICLE 11.

The Chevalier desires that the stipulation of five millions of dollars contained in this article may be stricken out, for he is aware that the territories ceded are sufficient to pay triple that sum, and, by agreeing to that stipulation, it would appear that Spain, in consideration only of the said amount, has ceded the two Floridas and other territories, when she would not have ceded them for twenty millions, were it not her desire to arrange and terminate all differences with the United States.

The remaining parts of this article are agreed to.*

The Secretary of State does not appear to find a positive objection to agreeing to the alteration required: however, as he conceives this article to be more important to the United States than to Spain, he will examine the question, and see whether the request of the Minister of Spain may or may not be agreed to.

ARTICLES 12, 13, 14, and 15.

Agreed.*

Agreed.*

ARTICLE 16.

REMARKS.

This article, which I have not before me, is, I believe, that in which Mr. de Onis requires that American vessels shall only receive clearances for a specified port. It appears that this article cannot be as-

sented to by the federal government, and is, therefore, as observed by Mr. Adams, wholly inadmissible in the present treaty.

ARTICLE 17.

Mr. de Onis requires that Spanish vessels shall be admitted for twelve years into all the ports of the ceded territories, upon the same footing as the vessels of the United States.	Agreed, as to the ports of St. Augustine and Pensacola.
2. That no nation shall enjoy the like privilege during the said term of twelve years.	Agreed.
3. That, at the expiration of the said term, Spanish vessels shall be received in said territories on the same footing as the most favored nations.	Refused.

N. B. It is agreed, by both parties, that the article stipulating the cession of the Floridas shall be so framed as to cover the honor of both countries, and prove that the treaty is an amicable transaction, divested of all mental reservations, disguise, or recrimination.

The writer of these hasty notes believes that he perfectly comprehended, and has faithfully stated, the conversation he had this morning with the Secretary of State.

He will be equally attentive in stating to-morrow the answer of the Minister of Spain. He flatters himself that all obstacles are nearly removed, and he deems it no small satisfaction, in having been invited, by the confidence manifested in him by both parties, to co-operate, however feebly, in an event which cannot fail to have a powerful influence on the peace and happiness of both hemispheres.

Washington, 15th February, 1819.

[Signed] G. H. DE N.

Mr. de Neuville to the Secretary of State.

Mr. de Neuville has the honor to present his respects to Mr. Adams, and to enclose the statement hastily drawn up by him yesterday evening. Mr. de Neuville believes he has omitted nothing of what Mr. Adams did him the honor to communicate to him. He will see Mr. Onis to day at 1 o'clock, and afterwards, that is, between 2 and 3, he will call at the office of the department and hand to Mr. Adams the

project sent by him to Mr. de Onis. Mr. de N. hopes that Mr. de Onis will remove the remaining unimportant difficulties, for which nothing on the part of Mr. de N. will be omitted. He avails himself with pleasure of this occasion to offer to Mr. Adams the renewed assurances of his high consideration.

Washington, 16th February, 1819.

JAMES MONROE,

President of the United States of America.

To all whom these presents shall concern, Greeting:

Know ye, That I have given and granted, and do hereby give and grant, to John Quincy Adams, Secretary of State of the United States, full power and authority, and also a general and special command, to meet and confer with the Envoy Extraordinary and Minister Plenipotentiary of his Catholic Majesty residing in the United States, being furnished with the like full powers of and concerning the limits between the territories of the United States, and those of his said Catholic Majesty in North America, and any mutual cessions of part of the same; of and concerning all matters of difference between the said United States and his Catholic Majesty; and concerning the relations of navigation and commerce between the said United States and his Catholic Majesty: and to conclude a treaty touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate thereof, if such advice and consent be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my [L. s.] hand, at the City of Washington, the sixteenth day of February, A. D. 1819, and of the Independence of the United States the forty-third.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS, *Sec. of State.*

[translation.]

Full power of the King of Spain to Don Luis de Onis.

Don Ferdinand, by the grace of God, King, &c. &c. &c. desiring to consolidate the friendship and good understanding which happily prevails between my kingdoms and the United States of America, through

the mutual interests existing between the two governments, and reposing full confidence in you, Don Luis de Onis, Knight of the Royal and distinguished Order of Charles the Third, and my Minister Plenipotentiary to the United States of America, by reason of your fidelity, distinguished zeal, and approved capacity, in the arduous concerns committed to you, have granted, and by these presents do grant to you full power, in the most ample form, to treat, of yourself and without other intermediate authority, with such person or persons as may be authorised by the President of the United States, and on the principles of the most perfect equality and fitness, to conclude and sign a Treaty of Amity, whereby past differences may be adjusted, and a firm and lasting peace established between the two governments. Obliging ourselves, as we do hereby oblige ourselves, and promise, on the faith and word of a King, to approve, ratify, and fulfil, and to cause to be inviolably observed and fulfilled, whatsoever may be stipulated and signed by you; to which intent and purpose I grant you all authority and full power, in the most ample form, thereby and of right required.

In faith whereof, we have given command to issue the present, signed with our royal hand, sealed with our privy seal, and countersigned by our underwritten First Secretary of State and of Universal Despatch.

Given at Madrid, the tenth day of September, 1816.

[L. s.] [Signed] FERDINAND.
[Countersigned] PEDRO CEVALLOS.

TREATY

OF AMITY, SETTLEMENT, AND LIMITS,

BETWEEN

THE UNITED STATES OF AMERICA, AND HIS CATHOLIC MAJESTY.

THE United States of America, and his Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate, with precision, the limits of their respective bordering territories, in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State

of the said United States; and His Catholic Majesty has appointed, the Most Excellent Lord Don Luis de Onis Gonsalez Lopez y Vara, Lord of the Town of Rayaces, Perpetual Regidor of the Corporation of the City of Salamanca, Knight Grand-Cross of the Royal American Order of Isabella the Catholic, decorated with the Lys of La Vendée, Knight-Pensioner of the Royal and distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said Royal Order, of the Counsel of His Catholic Majesty, his Secretary with exercise of Decrees, and His Envoy Extraordinary, and Minister Plenipotentiary, near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE I.

There shall be a firm and inviolable peace, and sincere friendship, between the United States and their citizens, and His Catholic Majesty, his successors, and subjects, without exception of persons or places.

ARTICLE II.

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries, or officers of the United States, duly authorized to receive them.

ARTICLE III.

The boundary line, between the two countries, west of the Mississippi, shall begin on the gulph of Mexico, at the mouth of the River Sabine, in the Sea; continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo, of Nachitoches, or Red river; then, following the course of the Rio Roxo, westward, to the degree of longitude 100 west from London, and 23 from Washington; then, crossing the said Red river, and running thence, by a line due north, to the River Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to t he south sea. The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But,

if the source of the Arkansas river shall be found to fall north, or south, of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the south sea: all the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but, the use of the waters, and the navigation of the Sabine, to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations. The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions, to the territories described by the said line, that is to say: The United States hereby cede to His Catholic Majesty, and renounce forever, all their rights, claims, and pretensions, to the territories lying west and south of the above described line; and, in like manner, His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions, to any territories east and north of the said line, and, for himself, his heirs and successors, renounces all claim to the said territories forever.

ARTICLE IV.

To fix this line with more precision, and to place the land marks which shall designate, exactly, the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Nachitoches, on the Red river, and proceed to run and mark the said line, from the mouth of the Sabine, to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated, and the line of latitude 42, to the south sea: they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree respecting the necessary articles to be furnished to those persons, and also to their respective escorts, should such be deemed necessary.

ARTICLE V.

The inhabitants of the ceded Territories shall be secured in the free exercise of their religion, without any restriction, and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject, in either case, to duties.

ARTICLE VI.

The inhabitants of the Territories which His Catholic Majesty cedes to the United States, by this Treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.

ARTICLE VII.

The officers and troops of His Catholic Majesty, in the Territories hereby ceded by him to the United States, shall be withdrawn, and possession of the places occupied by them shall be given, within six months after the exchange of the ratifications of this Treaty, or sooner, if possible, by the officers of His Catholic Majesty, to the Commissioners or officers of the United States, duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops, and their baggage, to the Havana.

ARTICLE VIII.

All the grants of land, made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said Territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the Territories had remained under the dominion of His Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish Nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this Treaty; in default of which, the said grants shall be null and void. All grants made since the said 24th of January, 1818, when the first proposal on the part of His Catholic Majesty, for the cession of the Floridas, was made, are hereby declared and agreed to be null and void.

ARTICLE IX.

The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries, which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this Treaty.

1. The renunciation of the United States will extend to all the injuries mentioned in the Convention of the 11th of August, 1802.
2. To all claims on account of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.
3. To all claims of indemnities on account of the suspension of the right of deposit, at New-Orleans, in 1802.
4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and in the ports and territories of Spain, or the Spanish Colonies.
5. To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States, in Spain, since the date of the Convention of 1802, and until the signature of this Treaty.

The renunciation of His Catholic Majesty, extends,

1. To all the injuries mentioned in the Convention of the 11th of August, 1802.
2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.
3. To all injuries caused by the expedition of Miranda that was fitted out and equipped at New-York.
4. To all claims of Spanish subjects upon the government of the United States arising from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.

Finally; to all the claims of subjects of His Catholic Majesty upon the government of the United States, in which the interposition of His Catholic Majesty's government has been solicited before the date of this Treaty, and since the date of the Convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American army in Florida.

ARTICLE X.

The Convention entered into between the two governments, on the 11th of August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled.

ARTICLE XI.

The United States, exonerating Spain from all demands in future, on account of the claims of their citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate; which commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and in case of the death, sickness, or necessary absence, of any such commissioner, his place may be supplied by the appointment, as aforesaid, or by the President of the United States during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the Treaty between the two parties of 27th October, 1795; the said documents to be specified, when demanded, at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately at their Treasury, or by the creation of stock bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish government, if required, at the demand of the Spanish Minister in the United States.

ARTICLE XII.

The Treaty of Limits and Navigation of 1795 remains confirmed in all and each one of its articles, excepting the 2d, 3d, 4th, and 21st, and the second clause of the 22d article, which, having been altered

by this Treaty, or having received their entire execution, are no longer valid.

With respect to the 15th article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated, that the flag shall cover the property, the two high contracting parties agree, that this shall be so understood with respect to those powers who recognize this principle; but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose government acknowledge this principle, and not of others.

ARTICLE XIII.

Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed, that the sailors who shall desert from their vessels in the ports of the other, shall be arrested and delivered up, at the instance of the consul; who shall prove, nevertheless, that the deserters belonged to the vessels that claimed them, exhibiting the document that is customary in their nation; that is to say: the American consul, in a Spanish port, shall exhibit the document known by the name of *articles;* and the Spanish consul, in American ports, the roll of the vessel; and if the name of the deserter, or deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

ARTICLE XIV.

The United States hereby certify that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts, and in the ports of Spain, for the satisfaction of which, provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same, in such manner as she may deem just and proper.

ARTICLE XV.

The United States, to give his Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor the commerce of the subjects of his Catholic Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth, or manufactures, directly from the ports of Spain, or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes or of tonnage than will be paid by the vessels of the United States. During the said term, no other nation shall enjoy the same privileges within

the ceded territories. The twelve years shall commence three months after the exchange of the ratifications of this treaty.

ARTICLE XVI.

The present treaty shall be ratified, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner, if possible.

IN WITNESS WHEREOF, we, the underwritten plenipotentiaries of the United States of America, and of his Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement, and limits, and have thereunto affixed our seals, respectively.

Done at Washington, this twenty second day of February, one thousand eight hundred and nineteen.

[SEAL.] JOHN QUINCY ADAMS.

[SEAL.] LUIS DE ONIS.

Resolution of the Senate advising Ratification.

IN SENATE OF THE UNITED STATES,
February 24th, 1819.

Resolved, Two-thirds of the Senators present concurring therein, that the Senate do advise and consent to the ratification of the Treaty of Amity, Settlement, and Limits, made and concluded at Washington, on the twenty-second day of February, 1819, between the United States and his Catholic Majesty.

Attest, CHARLES CUTTS, *Secretary.*

Ratification by the President of the United States.

JAMES MONROE, President of the United States of America, to all and singular who shall see these presents, greeting: Whereas a Treaty of Amity, Settlement, and Limits, between the United States of America and his Catholic Majesty, was concluded and signed between their Plenipotentiaries in this City, on the twenty-second day of the present month of February, which Treaty is word for word as fol-

lows:—[See copy herewith transmitted.] And whereas, the Senate of the United States, by their resolution, on the twenty-fourth day of the same month, two thirds of the Senators then present concurring, did advise and consent to the ratification of the said Treaty:

Now, therefore, I, James Monroe, President of the United States of America, having seen and considered the Treaty above recited, do, in pursuance of the aforesaid advice and consent of the Senate of the United States, by these presents accept, ratify, and confirm the said Treaty, and every clause and article thereof, as the same are hereinbefore set forth.

In faith whereof, I have caused the seal of the United States of America to be hereto affixed.—Given under my hand, at the City of Washington, this twenty-fifth day of February, in the [L. S.] year of our Lord one thousand eight hundred and nineteen, and of the Independence of the said States the forty-third.

[Signed] JAMES MONROE.

General instructions to Mr. Forsyth, Minister Plenipotentiary to Spain.

Department of State, *Washington, 8th March,* 1819.

John Forsyth:

Sir: The treaty of amity, settlement, and limits, between the United States and Spain, concluded on the 22d ultimo, and ratified on the part of the United States, having provided for the adjustment of all important subjects of difference between the two nations; the first object of your mission will be to obtain the ratification of the Spanish government and receive it in exchange for ours, the authentic instrument of which is committed to your charge. The United States ship Hornet, captain Read, is in readiness at Boston, and orders have been despatched under which you will take passage in her for Cadiz. It is desirable that you should embark without delay. On your arrival in Spain, the Hornet will remain at Cadiz, subject to your orders, until the exchange of the ratifications can be effected. And if, as is anticipated, no obstacle should intervene to delay that transaction, you will, upon receiving the Spanish ratified copy, immediately forward it to captain Read, with directions to bring it immediately to the United States. As the ulterior destination of the Hornet will be the Gulph of Mexico, the port to which it will be advisable for him to come, will be New York.

On exchanging the ratifications, certificates of the fact will be mutually executed and delivered by you and the Spanish Minister with

whom you will make the exchange. Copies of that which passed in both languages on the exchange of the ratifications of the convention of the 11th August, 1802, are now furnished you, and will serve as forms, to be used in the performance of this ceremony. On this occasion, as upon all others upon which you may have occasion to execute any document, joint, or reciprocal, with a foreign Minister of State, you will be careful to preserve the right of the United States to the *alternative* of being first named, and your own right as their representative, to sign first in the papers executed; while, in the counterparts, the other contracting party will be named first, and the foreign Minister will first sign and seal. A rigid adherence to this practice has become necessary, because it is strictly adhered to by all the European sovereigns, in their compacts with one another; and, because the United States having heretofore sometimes forborne to claim this conventional indication of equal dignity, some appearance of a disposition to allege the precedent against them, as affecting their right to it, was manifested by the British plenipotentiaries on executing the convention of 3d July, 1815, and by Mr. de Onis, at the drawing up and signing of this treaty. The scruple was, however, in both cases abandoned, and the right of the United States to the alternative was conceded. It is not expected that it will hereafter be questioned, and you will consider it as a standing instruction to abide by it in the execution of any instrument of compact, which, as a public minister of the United States, you may be called to sign.

After the exchange of the ratifications, your attention will be directed to the object of carrying the provisions of the treaty into effect. The orders for the evacuation by the Spanish officers and troops of the places occupied by them in the Floridas, will, no doubt, be immediately issued; and as the transports and escort for conveying them to the Havana are to be furnished by the United States, it is hoped you will obtain copies of the orders, and transmit them here with the ratification of the treaty. You will think it advisable to keep the Spanish government reminded of the necessity to include in the orders for the delivery of possession, that of all the archives and documents relating to the dominion and sovereignty. The appointment of a commissioner and surveyor, for running the line of the western boundary, must also be kept in remembrance, and notice given to us as soon as possible after their appointment. You will collect from the archives of the legation at Madrid all the documents relating to the claims of citizens of the United States upon the Spanish government, which have been deposited there, and which come within the description of claims to be exhibited to the commissioners under the 11th article of the treaty. You will send all these documents, together with the ratified treaty, to this department, retaining descriptive lists of them; and, if necessary, copies of such papers for which no equivalent substitute could be produced in case of their being lost. Should you have reason to believe that any documentss, which you should be able to specify were in possession of the Spanish government, tending to elu-

cidate any of these claims, you will endeavor to obtain them. The treaty provides that they shall be furnished at the demand of the commissioners. But, as much time may be saved, if they can be sent here to be ready when the commission will be organized, and commence the exercise of its functions, you will, should the occasion present itself, use your endeavors to that effect.

Certificate of Exchange of Ratifications, referred to in the preceding Instructions.

We, John Quincy Adams, Secretary of State of the United States of America, and Don Luis de Onis Gonzales Lopez y Vara, Lord of the towns of Rayaces, Macadina, and Lagartera, Member of different Academies and Societies, both national and foreign, perpetual Regidor of the corporation of the city of Salamanca, Knight Grand Cross of the royal American Order of Isabella the Catholic, decorated with the Lys of La Vendee, Knight Pensioner of the royal and distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said royal Order, of the Council of his Catholic Majesty, his Secretary with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America—certify, that the ratifications of the convention between the said United States of America and his said Majesty, concluded on the eleventh day of August, one thousand eight hundred and two, accompanied with all suitable solemnities, and after due comparison each with the other, and with the original examples of the convention, have been exchanged by us this day.

In witness whereof, we have signed this act in triplicates, and have sealed the same with our respective seals, at the City of Washington, this twenty-first day of December, one thousand eight hundred and eighteen.

[Signed]

JOHN QUINCY ADAMS, [L. S.] LUIS DE ONIS, [L. S.]

The Secretary of State to Don Luis de Onis.

DEPARTMENT OF STATE,
Washington, 10th March, 1819.

DON LUIS DE ONIS, Envoy Extraordinary,
and Minister Plenipotentiary from Spain.

SIR: By the eighth article of the treaty of amity, settlement, and limits, signed by us on the 22d of last month, all grants of land in the Floridas, made by his Catholic Majesty, or his legitimate authorities in those provinces, subsequent to the 24th of January, 1818, are declared to be null and void. This date, as you will recollect, was agreed to on the part of the United States, with a full and clear understanding between us, that it included the grants alleged to have been made in the course of the preceding winter by the King to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas. As these grants, however, are known to the government of the United States only from rumor, without the knowledge of their dates, it is proper that, on exchanging the ratifications, your government should know, that, whatever the date of those grants may have been, it was fully understood by us that they are all annulled by the treaty, as much as if they had been specifically named, and that they will be so held by the United States. To avoid any possible misconception, your answer to this statement is requested; and the exchange of the ratifications will be made, under the explicit declaration and understanding that all the above mentioned grants, and all others derived from them, are null and void.

I pray you to accept the assurances of my distinguished consideration.

[Signed] JOHN QUINCY ADAMS.

Don Luis de Onis to the Secretary of State.

[TRANSLATION.]

SIR: I have received the note you were pleased to address to me of this day's date, in which you state that, by the eighth article of the treaty signed by us on the 22d of last month, it was agreed, on the part of the United States, that all grants of land in the Floridas, made by his Catholic Majesty, or his legitimate authorities, subsequent to the 24th January, 1818, are declared to be null and void, with a full understanding that it included the grants alleged to have been made in the course of the preceding winter, by the King, to the Duke of Alagon, the Count

of Punon Rostro, and Mr. Vargas; and that, therefore, you request of me a declaration that, whatever the date of those grants may have been, it was fully understood by us, that they are annulled by the treaty, as much as if they had been specifically named.

With the frankness and good faith which have uniformly actuated my conduct, and which distinguish the character of the Spanish nation, I have to declare to you, sir, that, when I proposed the revocation of all the grants made subsequent to the date above-mentioned, it was with the full belief that it comprehended those made to the Duke of Alagon, as well as any others which had been stipulated at that period.

But, at the same time that I offer you this frank, simple, and ingenuous declaration, I have to express to you, that, if my conception had been different, or, if it had appeared to me that any of those grants were prior to the date above-mentioned, I would have insisted upon their recognition, as the honor of the King, my master, and the unquestionable rights of his sovereignty of his possessions, and the disposal of them, obviously required.

I will hasten to transmit to my government due information of the whole; and, impressed, as I am, with the conviction of his Majesty's most earnest desire to meet the wishes of the President, I persuade myself that he will, with pleasure, participate in that sentiment, by admitting the explicit declaration which you have requested of me. In the mean time, I beg you will favor me with your answer to the explanations I requested yesterday, in relation to the late act of Congress concerning piracy.

Be pleased to accept the assurance of my distinguished consideration. God preserve you many years.

[Signed] LUIS DE ONIS.

Washington, 10*th March*, 1818.

The Secretary of State to Mr. Forsyth.

DEPARTMENT OF STATE,

Washington, 10*th March*, 1819.

JOHN FORSTYH, Minister Plenipotentiary to Spain.

SIR: By the eighth article of the treaty of amity, settlement, and limits, between the United States and Spain, signed on the 22d of last month, all the grants of lands, made by his Catholic Majesty, or by his lawful authorities, since the 24th of January, 1818, in the territories ceded by H. C. M. to the United States, in the Floridas, are

declared, and agreed to be, null and void. This date was proposed by Mr. Onis, and acceded to on the part of the United States, with a full and clear understanding, on both sides, that the grants made, or alleged to have been made, in the course of the preceding winter, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, were among those agreed and declared to be null and void. Copies of the grants to the count of Punon Rostro and to Mr. Vargas, in the form of orders to the Governor General of the Island of Cuba, and to the Governor of the Floridas, had been transmitted to this Department by Mr. Erving; the first of which bears date the 6th of February, and the second the 11th of March, 1818; but no copy has been received of that to the Duke of Alagon. As, however, the authenticity of these documents might be denied, and the grants have never been made public, it is proper that the possibility of any future question, with regard to those grants, should be guarded against; for which purpose, the form of a declaration is enclosed, which it will be proper for you to deliver, on exchanging the ratifications of the treaty, to the Spanish Minister, with whom you will make the exchange. The fact of the mutual understanding, that those grants were annulled by the treaty, is fully and explicitly admitted by Mr. Onis, in his answer, dated this day, to a note from me on this subject; copies of which, with a translation of his answer, are herewith enclosed. It is not anticipated that any objection will be made to receiving the declaration; if, however, there should be, you will, nevertheless, exchange the ratifications; it being sufficient to give the notice and the proof of the understanding, on both sides, of the operation of the article, and of the effect which will be given to it on the part of the United States.

I am, with much respect, &c.

[Signed.] JOHN QUINCY ADAMS.

Form of the Declaration, referred to in the preceding Letter.

The undersigned, Minister Plenipotentiary from the United States of America at the court of His Catholic Majesty, is commanded by the President of the United States to explain and declare, upon the exchange of the ratifications of the treaty of amity, settlement, and limits, between the United States and H. C. M. signed by the respective Plenipotentiaries at Washington, on the twenty-second day of February last, that, in agreeing upon the 24th day of January, 1818, as the date, subsequent to which, all grants of land, made by H. C. M. or by his legitimate authorities in the Floridas, were declared to be null and void, it was with a full and clear understanding between the Plenipotentiaries of both the high contracting parties, that, among the grants thus declared null and void, were all those made, or alleged to have been made, in the course of the preceding

winter, by H. C. M. to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, and all others derived from them. And the ratifications of the treaty are exchanged under the explicit declaration and uuderstanding that all the said grants are null and void, and will be so held by the United States.

[Signed] —— ——

Madrid, —— — 1819.

The Secretary of State to the Minister of France.

MR. HYDE DE NEUVILLE, Envoy Extraordinary, and Minister Plenipotentiary from France.

Washington, 17*th March*, 1819.

SIR: By the eighth article of the treaty lately concluded between the United States and Spain, all grants of land made by the King of Spain, or his legitimate authorities in Florida, before the 24th of January, 1818, are confirmed on certain conditions: all those made after that date are declared null and void.

Since the conclusion of the treaty, a rumor has been circulated, that certain grants, made by the King of Spain, in the course of the preceding winter, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, were made on the 23d of January, 1818. Mr. Forsyth has therefore been instructed, on exchange of the ratifications of the treaty, to declare that it was fully and explicitly understood on both sides, at its signature, that all those grants, and all others derived from them, were, by the treaty, included among those declared to be absolutely null and void. Mr. de Onis himself, in answer to a note from me, has readily declared that such was his understanding. From the friendly part taken by you, in concert with Mr. de Onis, in this negotiation, you were apprised of all the circumstances attending it: and I have to request that you would have the goodness to state your impressions on the subject, particularly in relation to the absolute nullity of those grants, and, as far as you think proper, the facts in connection with this transaction, which you have mentioned to me in conversation.

I pray you, Sir, to accept the assurance of my distinguished consideration.

[Signed] JOHN QUINCY ADAMS.

The Minister of France to the Secretary of State.

[TRANSLATION.]

LEGATION OF FRANCE IN THE UNITED STATES:
Washington, 18*th March*, 1819.

SIR: I was very sure, and you were of the same opinion, that, to destroy the rumor which had been spread, it would suffice to inform the Minister of Spain of it. The loyalty which characterizes him did not permit the smallest uneasiness on the subject. After the declaration of Mr. Onis, mine can be of no importance; however, as you desire (in case the mistake of date should be real) that the fact resulting from the Treaty should be well established, and by all those persons who took part, directly or indirectly, in the transaction, I have the honor, sir, to declare to you, in the most formal manner, that it has been understood, always understood, by you, by the Minister of Spain, and, I will add, by myself, that the three great grants of land made to the Duke of Alagon, to the Count of Punon Rostro, and to Mr. Vargas, were of the number of those annulled.

The date of 24th of January was proposed and accepted in the complete persuasion, on one part and the other, that these three great grants were subsequent to it.

I will add, sir, because it is the exact and pure truth, that, having been charged by Mr. Onis, during his illness, to discuss with you several articles of the Treaty, particularly the eighth article, you consented to the drawing up of this article more in conformity with the desire of the Spanish Minister, only on the admission, as a fact beyond doubt, that the three principal grants were and remained null, and as not having taken place. Mr. Onis has not ceased thus to understand it. He has explained himself upon it frankly and loyally, as well since as before the Treaty. The mistake of date, if it exists, can, then, give birth to no difficulty whatever at Madrid. The good faith of Mr. Onis, that of his government, are guarantees too strong to render any other explanations necessary. Between governments, as between individuals, the same laws of honor and probity govern transactions. The convention exists only by the convention; therefore, sir, in this case the simple statement of the fact will be sufficient to rectify the mistake.

In answering, sir, immediately the letter which you did me the honor to write to me, I embrace with much pleasure this new opportunity to assure you of the high consideration with which I have the honor to be, &c.

[Signed] G. HYDE de NEUVILLE.

Hon. Mr. Adams, Secretary of State.

Observations on the eighth article of the Treaty of the 22d February, 1819, between the United States and Spain, submitted to Mr. de Neuville, 14th July, 1819.

It will be recollected by Mr. de Neuville, that, on the 15th of February last, Mr. de Onis being confined to his house by indisposition, Mr. de Neuville, at his request, had a conversation with Mr. Adams, in which were discussed the project of a treaty which had been delivered, on the 9th of February, by Mr. de Onis to Mr. Adams, and the counter-project sent by Mr. Adams to Mr. de Onis, on the 13th of the same month.

The ninth article of the project of Mr. Onis was in these words:

"All the grants of land made by his Catholic Majesty, or by his legitimate authorities, in the aforesaid territories, of the two Floridas, and others which his Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting those grants which may have been made after the 24th January of last year, the date that the first proposals were made for the cession of those provinces, which shall be held null in consideration of the grantees not having complied with the conditions of the cession."

The eighth article of the counter-project sent by Mr. Adams was as follows:

"All grants of land made by or in the name of his Catholic Majesty, in the aforesaid territories, after the 24th January, 1818, shall be held null, the conditions of the said grants not having been performed by the grantees. All grants made before that date, by his Majesty, or by his legitimate authorities, the conditions of which shall have been performed by the grantees, according to the tenor of the respective grants, and none other, shall be confirmed and acknowledged as valid."

M. de Neuville's particular attention is requested to the difference between the two projected articles, because it will recall particularly to his remembrance the point upon which the discussion concerning this article turned. By turning to the written memorandum drawn up by Mr. de Neuville himself, of this discussion, he will perceive he has noted that Mr. de Onis insisted, "that this article could not be varied from what was contained in the chevalier's project, as the object of the last clause therein was merely to save the honor and dignity of the sovereignty of his Catholic Majesty."

It was then observed by Mr. Adams, that the honor and dignity of his Catholic Majesty would be saved by recognizing the grants prior to the 24th of January, as "valid to the same extent as they were binding on his Catholic Majesty," and he agreed to accept the article as drawn by Mr. Onis, with this explanation (see Mr. de Neuville's memorandum.) It was on this occasion that Mr. de Neuville observed that if the grants prior to January 24, 1818, were confirmed only to the same extent that they were binding on the king of Spain, there were many *bona fide* grantees, of long standing, in actual possession of their grants, and having actually made partial set-

tlements upon them, but who had been prevented, by the extraordinary circumstances in which Spain had been situated, and the revolutions in Europe, from fulfilling all the conditions of the grants; that it would be very harsh to leave these persons liable to a forfeiture, which might, indeed, in rigor, be exacted from them, but which very certainly never would be if they had remained under the Spanish dominion. It will be well remembered by Mr. de Neuville how earnestly he insisted upon this equitable suggestion, and how strongly he disclaimed for Mr. Onis every wish or intention to cover, by a provision for such persons, any fraudulent grants. And it was then observed, by Mr. de Neuville, that the date assumed of 24th January of 1818, was not sufficient for guarding against fraudulent grants, because they might be easily antedated. It was with reference to these suggestions of Mr. de Neuville, afterwards again strenuously urged by Mr. de Onis, that the article was finally modified as it now stands in the treaty, declaring all grants subsequent to 24th January, 1818, absolutely null, and those of prior date valid to the same extent only that they would have been binding upon the king, but allowing to *bona fide* grantees, in actual possession, and having commenced settlements, but who had been prevented by the late circumstances of the Spanish nation and the revolutions in Europe, from fulfilling *all* the conditions of their grants, time to *complete* them. It is needless to observe that, as these incidents do not apply to either of the grants to Alagon, Punon Rostro, or Vargas, neither of those grants is confirmed by the tenor of the article as it stands: and that it is perfectly immaterial in that respect whether they were dated before or after the 24th January, 1818, it being admitted, on all sides, that these grants were not binding upon the king, conformably to the Spanish laws. The terms of the article accord precisely with the intentions of all the parties to the negotiation and the signature of the treaty. If the dates of the grants are subsequent to 24th January, 1818, they are annulled by the date; if prior to that date, they are null because not included among the prior grants confirmed.

The Secretary of State to Mr. John Forsyth.

JOHN FORSYTH, Esquire, Minister Plenipotentiary
of the United States, Madrid.

DEPARTMENT OF STATE,
Washington, 18*th August*, 1819.

SIR: Captain Read, of the Hornet, has delivered to me your despatches of the 10th, 17th, and 22d of June, which have been submitted to the consideration of the President.

However extraordinary the conduct of the Spanish Government, in relation to the Treaty, signed on the 22d of February last, has been,

the President is unwilling to abandon the hope, that, within the period of six months, allowed for the exchange of the ratifications, a sense of justice, and of decent regard for the public faith of the King and nation, solemnly pledged by the Treaty, will prevail over the individual intrigues and lurking influence which prompted the delay that has taken place. Should this expectation, however, be disappointed, and should the Treaty remain unratified by Spain at the time when you shall receive this despatch, you will immediately make an official communication to the Minister of Foreign Affairs, stating that the ratification of Spain; with the explicit understanding on her part, that the alleged grants to the Duke of Alagon, Count Punon Rostro, and Mr. Vargas, and all others which may have been made under the same circumstances, are, by the eighth article of the Treaty, null and void, and will be so held by the United States, will be accepted as valid; and that you are authorized to receive the Spanish ratification in exchange for that of the United States, though after the lapse of the stipulated six months: provided the exchange shall be immediate, and in such time that you can despatch the ratified Treaty by the messenger who will be the bearer of this, in season to arrive here before the meeting of Congress, on the first Monday in December; that, if the ratified Treaty should not arrive here at that time, a full communication will be made by the President to Congress, of all the transactions relating to the Treaty, and such measures will be adopted by that body, as they shall think required by the exigency of the case; that, whatever their determination may be, the Spanish Government will be responsible to the United States for all damages and expences which may arise from the delay or refusal of Spain to ratify, and from the measures to which the United States may resort, to give efficacy to their rights: and, that, for the indemnities to which they will be justly entitled, for this violation of faith by Spain, the United States will look to the territory west of the Sabine River.

The only reason assigned by the Minister of State, ad interim, Salmon, for the postponement of the Spanish ratification, was, the determination of the King, founded upon the great importance of the Treaty, to act upon it with full deliberation. This may have been sufficient to justify delay within the period stipulated by the Treaty; but, after the expiration of that period, can no longer be alleged. Delay beyond that period will be a breach of faith; for the Treaty, in all its parts, from the moment of its signature by Mr. Onis, and the ratification of the United States, was as binding upon the honor and good faith of the Spanish King and Nation, as it would be after the ratification. It is scarcely supposable that Spain will contest this position, or that it should be necessary to present it to her view, in the following terms, of the full power of Mr. Onis, the original of which, signed by the King of Spain, was delivered to me before the signature of the Treaty. The words of His Catholic Majesty are, after authorizing Mr. Onis to treat, "negociate and conclude a Treaty, whereby past differences may be adjusted, and a firm and lasting

peace established between the two Governments; obliging ourselves, as we do hereby oblige ourselves, and promise, on the faith and word of a King, to approve, ratify, and fulfil, and to cause to be inviolably observed and fulfilled, *whatsoever may be stipulated and signed by you;* to which intent and purpose, I grant you all authority, and full power, in the most ample form, thereby as of right required.* If language, so explicit and unqualified, were, in regard to its import, susceptible of any doubt, founded on the usage which requires the ratification of the sovereign, for the full consummation of a Treaty, there is nothing dubious or uncertain in the extent of obligation resting upon him, by the signature of his Minister, vested with such a full power. The following passages from Vattel and Martens are decisive authorities upon the principle:

"Sovereigns treat together by the agency of their Attorneys or Mandatories, clothed with sufficient powers; they are commonly called Plenipotentiaries. All the rules of the law of nature, concerning things performed by commission, are here applicable. The rights of the agent are defined by the authority given him. From this he must not depart, *but whatever he promises within the terms of his Commission, and according to the extent of his powers, is binding upon his constituent.*"

"At this time, to avoid all danger and difficulty, Princes reserve to themselves the right of ratifying that which has been concluded by their minister, in their name. The full power is merely a commission, *cum libera.* If this commission were to have its full effect, it should be given with the utmost circumspection. But, as Princes can be constrained to fulfil their obligations, only by force of arms, the custom has arisen, of relying upon their treaties, only after they have sanctioned and ratified them. Whatever the minister has concluded, remaining ineffectual, until the ratification of the Prince, there is less danger of giving him a full power. But to refuse, with honor, to ratify that which has been concluded in virtue of a full power, the Sovereign must have strong and solid reasons for it; *and, particularly, he must shew that his minister transcended his instructions.*" *Vattel, Book* 2, *Chap.* 12, §156.

"Every thing that has been stipulated by an agent, in conformity to his full powers, ought to become obligatory for the state, from the moment of signing, without even waiting for the ratification. However, not to expose a state to the errors of a single person, it is now become a general maxim, that public conventions do not become obligatory till ratified. The motive of this custom clearly proves that the ratification can never be refused with justice, except when he who is charged with the negociation, keeping within compass with respect to his public full powers, has gone beyond his secret instruc-

* "Obligandonos y prometemos en fe y palabra de Rey que approbaremos, ratificaremos, cumpliremos y haremos observar y cumplir inviolablemente quanto por vos fuere estipulado y firmado para lo qual os concedo todas las facultades y plenos poderes en la forma mas amplia que de derecho se requieren."

tions, and consequently has rendered himself liable to punishment, or when the other party refuses to ratify."

Martens' Summary, Book 2, chap. 1 § 3.

The obligation of the King of Spain, therefore, in honor and in justice, to ratify the Treaty signed by his Minister, is as perfect and unqualified as his royal promise in the full power; and it gives to the United States the right equally perfect to compel the performance of that promise.

Should it be suggested that the United States, themselves, have, on more than one occasion, withheld or annexed conditions to the ratification of treaties, signed by their plenipotentiaries in Europe, it will readily recur to you, that, by the nature of our constitution, the full powers of our ministers never are or can be unlimited; that whatever they conclude must be, and by the other contracting party is always known and understood to be, subject to the deliberation and determination of the Senate, to whose consideration it must be submitted before its ratification; that our full powers never contain the solemn promise of the nation to ratify whatever the minister shall conclude, but reserve expressly, not only the usual right of ratification, but the constitutional privilege of the Senate, to give or withhold their assent to the ratification, without which assent, by a majority of two-thirds of the members present at the vote taken after consideration of the treaty, the President has no authority to ratify. In withholding or refusing the ratification, therefore, no promise or engagement of the state is violated. But neither the same reason nor the same principle applies to the King of Spain, who possesses the sole, entire, and exclusive power of ratifying treaties made by his ministers, and who, therefore, by the promise, on the faith and word of a king, to ratify whatever his minister shall sign, commits his own honor, and that of his nation, to the fulfilment of his promise. This distinction is well known and clearly recognized by the law of nations.*

The Spanish government cannot allege either that Mr. Onis transcended his secret instructions, or that the ratification of the United States has been refused, or that any unfair advantage was taken on the part of the United States, in the negociation, or that Spain was not fully aware beforehand of the full extent of the engagements contracted by Mr. Onis. It is too well known, and they will not dare to deny it, that Mr. Onis' last instructions authorized him to concede much more than he did; that those instructions had been prepared by Mr. Pizarro; that, after the appointment of the Marquis de

* The sovereign who possesses full and absolute power has undoubtedly the right to treat, in the name of the state which he represents, and his engagements bind the whole nation. But the rulers of nations have not all the exclusive power of making public treaties; some are under the restriction of taking the advice of the Senate, or of the representatives of the nation. It is in the fundamental laws of each state that we must look for the power capable of contracting valid engagements in the name of the state. *Vattel, Book 2, chap. 12, § 154.*

Casa Yrujo to the ministry, they were by him submitted to the king's council, and, with their full sanction, were transmitted to Mr. Onis; that, both in relation to the grants of lands in Floridas, and to the western boundary, the terms which he obtained were far within the limits of his instructions; that it was known to and understood by him, that the grants to Alagon, Punon Rostro, and Vargas, were annulled by the Treaty; that so fully was this his understanding, that, in his despatches to his government, he pointed out to them means of indemnifying those grantees, for their disappointment, from other lands. The government of the United States, indeed, considered the moderation and generosity of the terms to which they had acceded as a pledge that they would be received with pride and joy by the Spanish government. And so, it will not be denied, they were in the first instance received by the King of Spain and his cabinet. If, afterwards, from the unexpected extent of sacrifices which the United States made, for purposes of conciliation, and of sincere amity, Spain has drawn the inference that this temper may be trifled with, and abused, it is proper, and will be just, that she should be effectually undeceived.

Should the ratification be withheld, it is to be presumed that some other reason than the importance of the treaty will ultimately be assigned by Spain for withholding it. What that will be, can at present only be conjectured. If the grants to the Duke of Alagon, and Count Punon Rostro, should be assigned, as forming the objection, you will explicitly declare, that the United States have no compromise to make, and will listen to none on that subject. The insinuation of the Marquis of Casa Yrujo, that those grants, by the letter of the eighth article, would be confirmed, if dated before the 24th of January, 1818, was totally unfounded. Mr. Onis knows that the whole of the eighth article was finally drawn up, as it stands, with the express intention, declared by me, and agreed to by him, to exclude them from confirmation, whatever might be their dates. Mr. Onis, on the first project of a treaty, delivered on the 9th of February, had drawn the article in such terms as to confirm all grants made before the 24th of January, 1818. If the article had even been accepted by us in those terms, it could only, by an unworthy deception, be pretended that it covered the grants of Alagon, and Punon Rostro, because it had been explicitly agreed, on both sides, that they should be annulled, and because Mr. Onis, who always spoke of them as fraudulent grants, of which he was ashamed for his country, has repeatedly declared to me, that he signed the treaty without knowing their dates, but fully believing them to be subsequent to the 24th of January. If, then, the confirmation of the grants prior to that date, had been as it was first proposed by Mr. Onis, positive and unqualified, and if the grants had been completely made before that date, there might be some pretence that they were covered by the letter of the article, though by a mistake, common to both parties, of which a just and honorable government would disdain to take any other advan-

tage, than that of manifesting its good faith by its cheerfulness and promptitude in rectifying the error, and fulfilling the intention, instead of the letter, of the engagement. But the article was not accepted in this form. In the counter-project delivered by me on the 13th of February, the grants prior to the 24th January, 1818, *the conditions of which should have been performed by the grantees*, and none other were declared to be confirmed. At the time that the counter-project was received by Mr. Onis, he was confined to his house by indisposition. At his request, the communications between him and me, were made by the friendly interposition of the French minister, M. Hyde de Neuville. Mr. Onis insisted on the article concerning the grants, as drawn up by him, not for the purpose of covering these grants, for he professed an earnest desire that they should be annulled, for the vindication of his own character from the aspersion which had been circulated here, that he had a personal interest in them; but he had drawn the article in these terms, *merely to save the honor of the King*. It was then observed that the honor of the King could be saved by declaring the grants prior to 24th January, 1818, binding *to the same extent*, as they would have been upon the Spanish government, if the cession to the United States had not been made. It was known and admitted, that neither of those grants would in that case have been valid, because the conditions, by the laws of the Indies, indispensible to their validity, neither had been, nor could be fulfilled by the grantees; and their nonperformance had been formally assigned by Mr. Onis, in his letter to me of 16th November, 1818, as his reason for agreeing to their being annulled. But he observed, that there were grants of old standing, made *bona fide* to persons in actual possession of the lands, and having made improvements and settlements upon them, but who, by the late revolutions in Europe, and the convulsed state of Spain, had been prevented from completing all the conditions of their grants; that it would be but equitable to allow them time from the date of the treaty, to fulfil them. To this a ready assent was given, and the article was thus agreed to: limiting to such grants alone, the confirmation prior to the 24th of January, 1818.

Minutes of the discussion upon this article were drawn up in writing at the time by Mr. de Neuville, copies of which were furnished both to Mr. Onis and to me, prior to the signature, and recognized by us both to be correct. An abstract from them of all that relates to this article, together with the draft of the article as first proposed by Mr. Onis, of that in our counter-project, and of the article as finally agreed to, are herewith enclosed. They will show that the confirmation of the grants to Alagon, Punon Rostro, and Vargas, is as effectually excluded by the limitations in the first part of the article, if their date is prior to the 24th of January, 1818, as by the date itself, if made subsequent to that time. They were not excluded *by name*, for two reasons: First, conformably to the desire of Mr. Onis, *to save the honor of the King*. You will see this distinctly noted in the min-

utes of Mr. de Neuville. Secondly, because, from the despatches of Mr. Erving, it was supposed there were other grants of the same kind, and made under similar circumstances. To have named them might have left room for a presumptive inference in favor of others. The determination was to exclude them all.

No reliance was placed upon the exclusion by the date, because the grants having been secretly made, and without the usual formalities, the copies of them received from Mr. Erving might be unauthentic; because no copy of the grant to Alagon had been received; and because, if fraud was to be guarded against, it was well known that antedating was one of its most familiar and favorite expedients. When, shortly after the signature of the Treaty, a rumor was circulated here, that the date of the grants was one day prior to the 24th of January, 1818, and that this last date had been assumed with the intention, at least on the part of Mr. Onis, that they should be confirmed; without admitting the suspicion that he had attempted a deception for which the language of decency has no name, it was yet thought advisable, that no shadow of a pretence should by any possibility be raised after the ratification of the Treaty, by Spain or the grantees, that those grants were confirmed, or that either party of the compact had understood that they would be by the article as it stood. You were therefore instructed, on exchanging the ratifications, to deliver a declaration of this construction, which it had been the avowed intention of both parties, at the signature, that the eighth article should bear, in relation to the grants in question, and the only one which the United States would ever admit. Mr. Onis, by his answer to my note of the 10th March, unequivocally recognized that such had been his understanding of the import of the article when he signed it. He added, indeed, that if he had known that the grants were of a prior date, he should have insisted upon their being confirmed. But, without remarking that his ignorance of their dates could have no possible effect to render valid that which he had agreed and understood to be null and void, it had escaped his recollection, that, in his note to me of the 16th November, 1818, he had agreed that these grants should all be annulled, *because their conditions had not been fulfilled by the grantees.* The President of the United States is yet willing to accept of the ratification of that Treaty by Spain. It settles important interests; it secures pacific and harmonious relations with Spain; it provides indemnities to many of our citizens for injuries which Spain acknowledges they have suffered from her; and it gives us Florida, a land useless and expensive to Spain, though, chiefly by its position, valuable to us. But, for all these advantages, we know that we have given in the same Treaty ample and generous equivalents to Spain, and she will find herself much deceived, if, in the hope of making hereafter a better bargain, she now disdains them. To possess Florida, with the full and fair consent of Spain, is undoubtedly an object of interest to the American government; but an object of infinitely deeper and dearer interest to them is, to observe towards Spain, and

all other nations, a just, and candid, and single-hearted course of conduct, free from fraud, artifice, or disguise. And that which they observe, they demand in return. They will neither themselves practise, nor from others submit to, a disingenuous, double-dealing system of treachery, paltering with its own engagements, and spreading snares for the generous confidence of good faith.

You will therefore, on no consideration, exchange the ratifications without delivering the declaration prescribed by your instructions, when you took charge of the Treaty; and you will not fail, if the ratification be withheld, to address an earnest remonstrance to the Spanish government, against the grants themselves, and the circumstances under which they were issued.

The proposal of Mr. Onis' letter to this department, of 31st October, 1818, was as follows: "That the late grants made by his majesty, in the Floridas, since the 24th of January last, the date of my first note announcing his majesty's willingness to cede them to the United States, (the said grants having been made with a view to promote population, cultivation, and industry, and not with that of alienating them) shall be declared null and void, in consideration of the grantees not having complied with the essential conditions of the cessions, as has been the fact."

And in his letter of the 10th March, referring to this proposal, he says, "with the frankness and good faith which have uniformly actuated my conduct, and which distinguish the character of the Spanish nation, I have to declare to you, Sir, that, when I proposed the revocation of all the grants made subsequent to the date above mentioned, it was with the full belief that it comprehended those made to the Duke of Alagon, as well as any others, which had been stipulated at that period."

Here then is the express declaration of the Spanish negociator, of that treaty: 1st. That the grants in question were all, in his full belief when he made the proposal, included among those positively annulled by the date. 2d. That these grants had been made by the King, with the view of promoting population, cultivation, and industry, and not with that of alienating the territory, and, 3d, that the grants were all null and void, because the grantees had not complied with the essential conditions of the grants.

Now, what shall be said after these plain and positive declarations, when Spain advances, as the only ground of pretence, that these grants were confirmed by the treaty; that they were dated before the 24th January, 1818, indeed; but, after the instructions by which Mr. Onis was authorized to make his proposal of that date, for the cession of the Floridas, had been dispatched to him from Madrid? What becomes of his positive assurance, that these grants were made for the population, and improvement of the territory, and not with a view of alienation? And what was the meaning of Spain, in stipulating, that an acknowledged debt of indemnities, from her to citi-

zens of the United States, at least to the amount of five millions of dollars, should be paid from the proceeds of public lands in Florida, when she now comes and says, that even while her minister was signing this compact on her part, his Sovereign, by a secret and irregular alienation of the lands, had made its accomplishment impossible? In whatever other light it is to be considered, it is an injury to the United States, for which they are entitled to demand and obtain satisfaction. When the government of a nation degrades itself, by flagrant and notorious perfidy, those who are constrained to entertain political relations of neighbourhood with them, are justified, by the law of nature, and it is their duty to themselves, in subsequent transactions with such a state, to take pledges of security, for the performance of its engagements, more effectual than confidence in its good faith. Such pledges are amply within the reach of the United States, in their intercourse hereafter with Spain; nor is it to be presumed, that those who are intrusted with the maintenance of the rights and interests of this nation, will overlook, or neglect, the duty which may be devolved upon them, of taking them.

This despatch will be delivered to you by captain Read, of the Hornet. If the ultimate decision of the Spanish government, upon the treaty, should be still pending, on his arrival at Madrid, you will demand it immediately, giving notice, that a delay of more than one week, after your communication, will be taken as a refusal. At the expiration of that time, or sooner, if the decision be made known sooner to you, you will despatch captain Read, that his return to this place may, with all confidence, be expected by the 20th of November. Should the ratifications be exchanged, your leave of absence, contemplated when you left this country, may be used at your discretion; but if not, the President thinks it best that you should remain at Madrid, to await the contingency of events upon the meeting of Congress.

I am, very respectfully,
Your obedient and very humble servant,

[Signed] JOHN QUINCY ADAMS.

Mr. Forsyth to the Marquis of Casa Yrujo.

His Excellency the MARQUIS of CASA YRUJO,
First Secretary of State, &c. &c. &c.

MADRID, MAY 18, 1819.

SIR: The treaty concluded on the 22d of February, 1819, at Washington, by Mr. Adams on the part of the government of the United States, and the Chevalier de Onis on the part of His Catholic Ma-

jesty, has been entrusted to me by the President of the United States, duly ratified; and I am prepared to exchange the ratifications of this instrument at any moment it may suit the convenience of your Excellency. From the nature of the engagement, it is desirable that the earliest exchange should be made; and this would be particularly convenient, as an opportunity is afforded of sending this important document to my government, by the American ship of War Hornet, now in the harbor of Cadiz, and destined, in a few days, to the United States.

I seize, with avidity, every opportunity to present to your Excellency, whom may God preserve, the assurances of my distinguished consideration.

[Signed] JOHN FORSYTH.

Mr. Forsyth to the Marquis of Casa Yrujo.

MADRID, 4*th June*, 1819.

SIR: On the 18th of May last, I addressed to your excellency an official note, to inform you "that I was ready to exchange the ratifications of the convention, &c. concluded at Washington, by Mr. Adams and the Chevalier de Onis, on the 22d February, 1819; that it was desirable, from the nature of that instrument, that an immediate exchange of ratifications should be made, the more especially so, as I had an opportunity of sending it, when ratified by the King, to the United States, by the American sloop of war Hornet, then and now lying in the harbor of Cadiz." The time at which it will be necessary for that vessel (by the return of which the American government expects to receive the treaty ratified by His Majesty) to sail for the United States has so nearly arrived, that it is my indispensable duty to call your excellency's attention again to the subject of that note. It would be painful for me to see this vessel depart without the treaty. The government of the United States had a just and well founded expectation that no unreasonable delay would take place, and therefore looked to the return of this vessel for the instrument, executed with due formalities. Her arrival without it will not fail to make the most unfavorable impressions. To obviate such an effect is beyond my power, as I can perceive no adequate motive to prevent His Majesty's government from acting on this subject prior to her departure from Spain. Your excellency will not deem me unnecessarily importunate, or unreasonable, when I ask an immediate attention to this business, and express my conviction that an answer will be given to this, and to my note of the 18th May, already

alluded to, on the earliest day that the convenience of His Majesty's government will permit.

I renew to your excellency, whom may God preserve, the assurances of my distinguished respect and consideration.

[Signed] JOHN FORSYTH.

[TRANSLATION.]

Don Manuel Gonzales Salmon to Mr. Forsyth.

SIR, The King, my august master, has informed himself of the contents of your two notes of the 18th of May last, and 4th instant, in both of which you state, that you are ready to exchange the ratifications of the treaty concluded at Washington, on the 23d of February last, by Don Luis Onis and Mr. Adams, and that from the nature of that treaty, and the favourable opportunity of transmitting it to the United States, by the Hornet sloop of war, you are desirous that the said exchange may be made as expeditiously as may be.

I have also submitted to his Majesty the purport of your verbal communications to me on this subject, and I again brought to his view your observations thereon in the two several conferences I have had the honor to hold with you.

His Majesty has, in consequence, commanded me to inform you in reply, that, on reflecting on the great importance and interest of the treaty in question, he is under the indispensable necessity of examining it with the greatest caution and deliberation, before he proceeds to ratify it.

This being all I am enabled to communicate to you on this point, for the present, I avail myself, with pleasure, of the renewed occasion it affords me, to offer you my respects, and I pray God to preserve you many years.

[Signed] MANUEL GONZALES SALMON.

Palace, 19th June, 1819.

Mr. Forsyth to Don Manuel Gonzales Salmon.

MADRID, JUNE 21, 1819.

SIR: The determination of his Catholic Majesty to delay the exchange of ratifications of the treaty signed on the 22d February, at Washington, by Mr. Adams and the Chevalier Onis, as communicated by your Excellency's note of the 19th instant, in reply to my notes of the 18th May, and the 4th of the current month, fills me

with regret. As the subject matter of that treaty has been for years before the two governments, both of whom have, no doubt, long since discussed and deliberately determined upon what they would respectively claim and yield, I took it for granted no motive for delay could exist. Your Excellency's note, while it states to me the fact that a longer delay is contemplated, does not enlighten me as to the cause. The measure is, no doubt, important and interesting to His Majesty's kingdom, but no new light can have broken in upon the subject since the instructions were given to the Chevalier de Onis, upon which the treaty is founded, on the part of Spain—no change of the circumstances of the parties to it, has occurred—no new causes of difficulty, or complaint, are known to exist. Although the words of the treaty allow six months to elapse before the instrument is annulled, if the exchange of ratifications is not previously made, I must represent to your Excellency, that every hour's delay is at variance with the spirit of the instrument. The time stipulated was, to guard against accidents, extended to the longest period which, under any circumstances, could be required to effect the exchange. Had the distance of our respective governments permitted, the time fixed would not have been extended beyond a single day. If the government of the United States had not gratuitously offered the exchange here, His Majesty would have been compelled, ere this, to have transmitted the treaty ratified on the part of Spain, to America, or have lost the benefit of the convention. You will recollect that no place is fixed at which the exchange is to be made. It is to the confidence of the American government in the good disposition of Spain, that the King, your master, is indebted for the opportunity thus to delay acting upon the subject. The ill consequences which will ensue from this postponement, and the impression likely to be made by it, can be easily foreseen. Your Excellency may correctly estimate the conjectures to which it will give birth in the United States, from what is passing here. You, perhaps, are yet to learn, that the delay of the last month has given rise, at the seat of His Majesty's government, among his own subjects, to the most monstrous and absurd suppositions. Among the subjects of Spain, those who best know the integrity of the king, and the purity of his councils, it is asserted, that an act required by the policy of this government, essential to the interests of this kingdom, and demanded by the honor of the king, will not be performed. Yes, sir; the king is calumniated in his very capital by a most unjust surmise, that there will be a refusal to do that which the reputation of Spain requires; that which Spain dare not refuse to do. Your Excellency will not understand this as threatening His Majesty's government with the consequences which might ensue from the resentment of the United States, if it were possible for Spain to act in this business with bad faith. Threats are used by conscious weakness, not by conscious strength. I know too well the abundant resources, the expanding power, the youthful vigor of my country, to degrade her character by using language unworthy of it—if not by my respect for Spain, I

should be prevented by the fear of the deserved resentment of my own country; I should not be easily forgiven for condescending to say how she would punish an act of perfidy. It is by her acts, and not by the railings of her ministers, that she will be known to those who violate the faith pledged to her. But there is this, which a just government will more cautiously avoid than even the well-founded resentment of a powerful nation—the degradation of conscious baseness. No wise king will dare to do an act which would deprive him of the respect of all nations, sully the reputation of his kingdom in the eyes of the civilized world, and deprive his people of the strongest incentive to virtuous exertions, under every dispensation of heaven—the confidence in the integrity of their government. If even, in Spain, unjust surmises and unfounded mistrusts are entertained, your Excellency, recollecting the lately subsided irritations of long-continued disputes with the government of his Majesty, will not be surprised, that, in the United States, the same cause should produce, not suspicions, but firm convictions of the intention of this government to disappoint the expectations reposed in its good faith. I know full well, that, in two months, the act of the exchange of ratifications will prove, that these harsh convictions have been hastily and incorrectly formed; but the impression of them may remain, and the motive for the delayed exchange may be misunderstood. I have used every effort to avert it, but in vain. If my apprehensions should not be realized, I shall heartily rejoice.

It only remains for me to say, in this last note that I shall address to your Excellency on this subject, that, whenever His Majesty directs you to exchange the ratification of the treaty of 22d February, 1819, I am prepared, at any period before the 22d of August, on the part of my government, to perform that ceremony.

I renew to your Excellency, whom may God preserve, the full assurance of my perfect respect.

[Signed] JOHN FORSYTH.

[TRANSLATION.]

Don Manuel Gonzales Salmon to Mr. Forsyth.

SIR: I duly received the note you were pleased to address to me, dated the 21st of June last, in answer to that which I had the honor to write to you on the 19th of the same month, being my reply to your notes of the 8th of May and 4th of June, requesting the speedy ratification and exchange of the Treaty, lately concluded at Washington, on the 22d February, of the present year, between His Majesty, the King, my Master, and your Government.

In my said reply, I confined myself to stating to you that His Ma-

jesty, having taken that important subject into his most serious consideration, had found it indispensably necessary to examine the Treaty with the utmost caution and reflection before he proceeded to ratify it.

In your answer you express your surprise at the delay attending a transaction, which, having been already thoroughly discussed, could require no renewed examination of its final and definitive decision; and the more so, as the circumstances which lead to it, had experienced no change, with either party. You proceed to develop, at length, the injurious effect that, in your opinion, must be produced by the delay of the Spanish Government, in concluding this affair, and also of the disagreeable consequences that you foresee must result from that delay; and you conclude, by stating, that whenever His Catholic Majesty shall please to authorize me to exchange the ratifications of the Treaty of 22d February, 1819, you are ready to execute that act on behalf of your Government, at any time prior to the date of the 22d of August.

It would have been desirable if you had confined yourself, in your said note, to expressing your surprise and that of your Government, at the delay, on the part of Spain, in terminating, by her ratification, an affair, which, according to the intention of both, was to be considered as concluded, and to earnestly requesting the exchange of the same; by which the wishes of your Government, and one of the principal objects of your arrival at this Court, would be accomplished.

Thus, it is to be supposed, that you would have only conformed to the instructions which you will probably receive from your Government; and, therefore, other expressions and phrases you have used in your note, cannot fail to appear very extraordinary, which your ardent zeal for the interests of your nation, has, doubtless, prompted you to employ, but in which you have been carried farther than really could have been wished.

The expressions and phrases alluded to, which I refrain from otherwise specifying, are, to say the least, entirely superfluous, and, consequently, foreign to the subject in question; they have, therefore, surprized the more, as, in no possible case, can they be applicable to the Spanish Government, or to its agents. Convinced of the rectitude and justice of its rights, and of those ever prescribed by the bounds of moderation, it never has, in its communications, permitted itself to go to such extremes as would justify the proceeding now adverted to.

There would be much to remark upon a style so unusual in diplomatic communications, and still less conformable to the sentiments of mutual friendship and harmony, which should exist between the two Governments of Spain and the United States of America, as well as of those which, as its Representative, you are in a situation to express; but I shall abstain from any particular detail or comment upon your expressions, and confine myself merely to declare to you, as I have already done, the extreme surprize produced by that part of the contents of your note.

I am, at the same time, authorized by the King, my master, to inform you, that, having deliberately weighed the important subject, which forms the principal object of your communication, he is of opinion, that a final decision cannot be taken thereupon, without previously entering into several explanations with the Government of the United States, to some of which your Government has given rise.

His Majesty has, therefore, been pleased to charge, with his full confidence, a person possessing all the qualifications necessary for bringing this interesting trust to a happy conclusion, who will forthwith make known to the United States His Majesty's intentions on this point, in order that, all obstacles being removed on the one side and cleared up on the other, all the doubts which have arisen may be done away, and a full and satisfactory accomplishment given to the earnest desire which has animated the King, my master, on this subject, which certainly has uniformly been to see the friendship and good understanding, subsisting between both Governments, established on the most solid basis, and secured against future chances of interruption.

His Catholic Majesty persuades himself that the Government of the United States, in accordance with these principles and sentiments, far from refusing to admit these new explanations, will cheerfully receive them, as a proof of the good faith and frankness of the conduct of Spain; and that they will accede to her views, by promoting also, on their part, the speedy conclusion of an affair productive of the mutual advantage of both powers.

I offer, &c. &c.

[Signed] MANUEL GONZALES SALMON.

Madrid, 10*th August*, 1819.

Mr. Forsyth to Sen. Don Manuel Gonzales Salmon, acting Secretary of State, &c. &c.

MADRID, 12th AUGUST, 1819.

SIR: I received, this morning, your officio of the 10th instant. Some of the expressions of the note which I had the honor to present to his Majesty's government, on the 21st of June last, appear to have given offence. As you have not specified the particular phrases or expressions which are considered censurable, I can only say that it was far either from my wish or intention to treat his Majesty's government with disrespect, or to use terms calculated to interrupt the harmony and good understanding which ought to exist between it and the United States. I came here instructed by the President, and animated by the warmest wishes to strengthen, not to weaken, the almost broken bands of amity by which the two nations are still

united. I can but regret that, in my zeal to promote this great object, I have used language capable of being misunderstood. You will consider that this regret does not spring from a conviction that the construction put upon my note is just. So far from admitting this, I must insist that there is nothing contained in it which, if rightly interpreted, could be deemed objectionable; and I cannot but indulge the belief that the language has been held offensive, not from its genuine and original import, but from some fatality in its application. As to the remarks you have been pleased to make that these unusual expressions were idle, (ociosos) not pertinent to the business in question, and not common in diplomatic communications, they are not sufficiently important to merit a distinct reply. The two first it is not the province of his Majesty's government to reprove; to my own government I look for approbation or censure. There is no doubt that the pertinency of the matters referred to, will not escape its penetration. Should I be convicted of the offence of departing from the ordinary diplomatic stile, I shall find abundant consolation in the consciousness of having expressed just sentiments in simple terms. The course pursued by the government of his Catholic Majesty, and intended to be persisted in, as indicated by your note, is much more likely to disturb the harmony of the two nations, than the intemperate zeal of the representatives or agents of either. On the 22d of February, the convention was signed at Washington, by Mr. Adams and the Chevalier de Onis. In April a copy of it was received in Spain from the messenger sent by the Spanish Minister from America. It is not necessary to remind you, that the satisfaction of this government in the termination of this important business was marked by the distribution of honors in the gift of the crown, to persons very remotely connected with the transaction. What has produced the very surprizing change in the opinions then entertained on this subject, is for you, sir, to explain, if you think proper, but is what I cannot imagine, On the 18th of May, immediately after my introduction to his Majesty, the note of that day was delivered. It was therein stated that the treaty ratified by the United States was in Madrid, and an immediate exchange of ratifications was asked, that this important document might be sent to my government by a vessel of war bound in a short time from Cadiz to America: to this no reply was given. Under the expectation entertained from several conversations with the Marquis de Casa Yrujo, the substance of which has been verbally stated to you, the vessel was detained in the port of Cadiz, until the 2d of July. In this interval, the only communication received on this important subject, was your note of the 19th June, the purport of which was, that his Majesty found it necessary to proceed with the deliberation and slowness demanded by its importance, to consider the subject of the treaty. On the 12th day of August his Majesty's government gives notice, by your note of the 10th, of its determination—to ratify? no, sir, to send a person to Washington, possessing the confidence of the king, and having the necessary qualifications to terminate happily this affair. Can it

have escaped the observation of this government, that this affair must terminate in ten days? While a failure to resolve finishes the business in a few days, this government thinks that a definite resolution cannot be taken without first entering into various explanations with the United States, to some of which the government of the said States has given occasion. What circumstance in the history of this affair sustains the assurances that his Majesty finds himself animated by the most vehement desires to preserve a good understanding with, and the friendship of, the United States? Is it the disappointment of the rational anticipation, indulged in America, that the treaty ratified by Spain would be carried there in the ship of war Hornet?—The determination to send a messenger to the United States for explanations, at this period, when his voyage, as it regards the convention, must be useless; and the only hope which can be entertained from it, is that a new negotiation may be commenced? A circumstance of especial weight, when it is recollected that this messenger might have been sent to Washington, the desired explanations might have been asked and given there prior to the 22d of August, if the king your master had decided promptly on this course. Or is it in the inexplicable and studious avoidance of the natural order of proceeding in a case of this kind, an application to the Minister of the United States near the court of his Majesty for these necessary explanations, when they might have been, possibly, long since given, and still may be given, before the period arrives when the convention of the 22d February ceases to be obligatory upon the parties to it. You will forgive me, sir, if I perceive in none of these circumstances indications of those vehement desires by which his Majesty's government is animated, to establish, on a solid basis, a good understanding with the United States, to which in the usual style of diplomatic communications you refer. Since, however, I am bound and most willing to believe their existence, although the conduct of Spain has a tendency to force a different conviction upon the mind, allow me to suggest the only mode in which they can now be fully manifested and gratified. With that frankness and openness so honorable to all nations, and by which the Castilian character has been distinguished, disclose the difficulties that appear to interpose themselves to prevent the immediate conclusion of this affair. I am fully instructed by the government of my country upon the only point on which it can have given a motive for explanations, and while I cannot imagine what others are wished for, I persuade myself that I am so well possessed of its wishes and intentions as to be able to give full satisfaction to his Majesty upon any part of the treaty, the elucidation of which may be desired.

I renew to you, sir, the assurances of my distinguished consideration.

[Signed] JOHN FORSYTH.

[TRANSLATION.]

Don Manuel Gonzales Salmon to Mr. Forsyth.

SIR: I have received the note you were pleased to address to me of the 12th instant, in answer to that which I had the honor to write to you on the 10th, announcing the decision which the King my master had judged proper to adopt in relation to the Treaty concluded at Washington between the governments of Spain and the United States.

In that note you begin by endeavoring to justify the meaning of the expressions contained in yours of the 21st June, which however appear not the less extraordinary and surprising, as I have already intimated to you. But, on this head, I refer to what I have had the honor to express to you in my said note, by which the question will be considered as put at rest, and that on no account will it be agreeable to revive it.

I therefore proceed at once to reply to the leading object of your note; and I flatter myself that my answer will convince you, on the one hand, that the government of his Catholic Majesty could not observe a course different from that which it has taken on this occasion; and, on the other, that the determination of his Majesty to adopt that course, is founded upon his earnest wish, as I have already stated to you, to establish the amicable relations of both our governments upon a secure and permanent basis.

It is a fact of general notoriety, and must therefore be well known to you, that, as soon as the treaty concluded between his Catholic Majesty and the government of the United States was received here, and its stipulations became known, this important subject was taken into the most serious consideration by the King my master, as well to examine its provisions minutely, as to investigate the consequences to which it might give rise in relation to your government. From that time, this important business has almost exclusively occupied the attention of the Spanish cabinet; and it was not until after it had received the most mature deliberation, that his Catholic Majesty resolved that no final decision could be taken upon it, without previously entering into various explanations and eclaircissements with the government of the United States of America.

Any other determination which might have been taken previous to this step, would have been, to say the least, precipitate, and exposed to the inconveniences which it is wished to avoid; and especially not to leave the relations of good understanding re-established between both nations liable to interpretations, but to place them on solid and stable principles, as permanent as the sincere and perfect friendship and harmony which it is desired to establish between the two governments.

The explanations and eclaircissements desired by his Majesty before a definitive resolution could be taken by him on the affair in question, are not of a nature to be obtained by the means of a messenger despatched to the United States, and the answer to which could arrive

here before the 22d of the present month; and still less by reason of the retreat of the Minister Plenipotentiary of his Catholic Majesty, who, having made the Treaty, and being thoroughly possessed of the whole course of the negociation, was best qualified to demand the explanations desired. Besides, it having been the uniform wish of his Catholic Majesty to proceed with all possible care and circumspection in an affair of such moment, and having thus investigated it, as I have before stated to you, this circumstance could not have given occasion for the despatch of the messenger as intimated by you.

Nor could the explanations alluded to be entered into here under existing circumstances, on account of the want of time in the short space proposed by you. His Majesty has therefore resolved to appoint a confidential person to proceed to the government of the United States for the purpose of obtaining them; thereby giving a new proof of his deference for the American government, by his desire to be thoroughly informed of every thing which has passed in relation to the Treaty.

It is true, that when this determination which the King my master has been pleased to take in relation to this affair, will come to the knowledge of your government, the epocha of the 22d August will have elapsed; but this circumstance need prove no obstacle to the obtaining the requisite explanations and eclaircissements on the Treaty, as it is to be supposed that the American government would readily have afforded them at an earlier period, if the circumstances before pointed out had not prevented their being required immediately.

The communication which I had the honor to make to you on the 10th instant, and which could not have been made sooner, has been realized in due time; and certainly the government of the United States cannot fail to receive it favorably, if their desires, in conformity with those of his Catholic Majesty, are directed to the auspicious object of seeing the differences which existed between both governments at once terminated, and their amicable relations consolidated upon a firm and permanent basis.

This being the sole object proposed by his Catholic Majesty, he has judged, that, in order to attain it, there was no mode more fit and suitable than to investigate and explain before he gave his sanction to an agreement which is to serve as a basis of the future relations between the two powers, whatever doubts and elucidations it might have given rise to. He has therefore determined to despatch to the seat of the American government a person charged with stating to it frankly and candidly the wishes of the King my master; which he flatters himself will be fully accomplished, if he is met by similar dispositions, which it appears must be the case, if your government cherish the same sentiments by which his Majesty is animated.

In consequence of what I have herein stated, I trust that you will agree with me that the government of the King my master has proceeded in this affair with all prudence and circumspection; that it has not been possible for it to take a decision upon it until it had previously instituted a full investigation, without being exposed to the

hazards of a precipitate determination; and, finally, that the resolution of his Catholic Majesty, far from being liable to an unfavorable interpretation, is the most conducive to promote the principle connected with this affair, and the most likely to regulate in a satisfactory manner, while it, at the same time, reconciles the interests of both nations.

In this persuasion, I cannot but flatter myself that your communications to your government will accord with this sentiment, and that they will tend to remove any doubtful interpretation that it might give to the determination adopted by his Catholic Majesty, and which I have already had the honor to communicate to you.

I avail myself with pleasure of this renewed occasion to offer you the assurances of my high and particular consideration. God preserve you many years.

[Signed] MANUEL GONZALES SALMON.

Palace, 19th August, 1819.

Mr. Forsyth to Don Manuel G. Salmon.

[COPY.]

Sr. Don MANUEL GONZALES SALMON, Acting First Minister of State, &c. &c. &c.

MADRID, *August* 21, 1819.

The undersigned, Minister Plenipotentiary of the United States near His Catholic Majesty, perceives, with regret, but without surprize, from Sr. Don Manuel Gonzales Salmon's note of the 19th instant, that the determination made by the government of Spain, not to ratify the convention of the 22d February, signed, at Washington, by Mr. Adams and the Chevalier de Onis, will not be changed. The undersigned will not waste his own time, nor incroach upon that of His Majesty's government, by any observations on the said note, but will proceed to discharge the only duty, which, on this subject, remains for him to perform. He has the honor formally to announce, that, after the 22d day of the present month, as the ratifications of the convention of the 22d February will not have been exchanged, all the claims and pretensions of the United States, which, with the spirit of moderation, the love of peace, and the delusive expectation that all causes of difference and dispute with Spain would be thereby adjusted and settled, they consented to modify or waive, will stand in the same situation as if that convention had never been made. That the United States will hold themselves free to press and enforce them in any and every mode consistent with honor that their interest may require. On the extraordinary steps taken by His Majesty's government in this affair, the undersigned will not remark, lest he should

forget that respect which is due to the government near which, as the representative of another, he is sent to reside. Of the rumours that prevailed on this subject, before the decision of His Majesty's government was known, a decision he could not anticipate, the Minister of the United States expressed himself in terms sufficiently strong. As the recent determination has proved that there was but too much truth, in what he believed to be unfounded reports and gross calumnies, the undersigned must leave it to His Majesty's government, upon whom that obligation rests, to shew upon what grounds that determination is reconcileable to honor and good faith. The undersigned laments that, while communicating to his own country this unexpected result, it is not in his power to unfold the train of reasoning by which His Majesty's government has been deluded into a belief that the course taken could be followed without serious injury to the reputation of Spain. The United States, after waiting more than twenty years, with a patience and forbearance unexampled, the operations of reason and justice upon the councils of Spain, will see with astonishment this new instance of her apparent disregard to both. The minister of the United States, when transmitting his correspondence with His Majesty's government to his own country, will not omit to state the assurances verbally given to him of His Catholic Majesty's earnest desire to cultivate the good will of the United States: Unfruitful professions, that cannot but produce all the effect they deserve, and all that could be rationally expected from them.

The undersigned renews to Sr Don Manuel Gonzales Salmon the assurances of his perfect consideration and respect.

[Signed] JOHN FORSYTH.

Mr. Forsyth to the Duke of San Fernando.

His Excellency the Duke of San Fernando
and of Quiroga, first Minister of State, &c. &c. &c.

Madrid, *October* 2, 1819.

Sir: The government of the United States, having been prepared to expect the possibility of a failure on the part of Spain to ratify the convention of the 22d of February last, by the extraordinary delay to decide upon this subject, and the determination of the King further to postpone that decision, as communicated in the note of Mr. Salmon to me, of the 19th of June, have instructed me, should the final decision on it by the King not be made prior to this time, to inform the government of His Catholic Majesty, that, although the six months stipulated in the treaty, within which the ratifications were to be exchanged, have expired; that the ratification of Spain, made with the explicit understanding that the large grants of land in Florida to the

Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, and all others made under similar circumstances, are, by the eighth article of that convention, null and void, and will be so held by the United States, will be accepted as valid; and, I am authorized to receive the Spanish ratification for that of the United States: provided, this exchange shall be immediate. This exchange must take place soon enough to enable me to send the ratified treaty to the United States by Captain Read, of the sloop of war Hornet, of the navy of the United States, who will remain in Madrid ten days to carry to the President the final determination of Spain on this important subject. Having received from your excellency's predecessors in office no explanation of the particular causes of the delay that has taken place, it is in my power only to explain the reasons which induce the government of the United States to insist upon an explicit understanding of the force and obligation of the 8th article of the Treaty, prior to the exchange of ratifications; an understanding which will be fully shewn by a declaration I am instructed to present at the time of the exchange, should it ever take place, a copy of which is enclosed. It was rumoured in the United States, and, since my residence in Madrid, I have been informed that the large grantees declare that their grants are valid under the 8th article. It has been asserted, with the strongest appearances of truth, that the determination of the government of the United States to hold them void, as expressed in the letter of Mr. Adams, the Secretary of State, to Mr. Onis, of the 10th of March, 1819, has been one of the chief causes of the extraordinary delay to decide upon the ratification of the instrument in Spain. It is necessary to the honor and the interest of the United States, whose conduct to Spain, and to all nations, is governed by frankness and justice, free from fraud, artifice, and disguise, which they will never practice, nor from others submit to a disingenuous, double-dealing system of treachery, paltering with its own engagements, and spreading snares for the generous confidence of good faith, to place this subject beyond the reach of difficulty or doubt. Without knowing, therefore, the dates of the respective grants alluded to, and supposing it barely possible that there is a foundation for a pretension of the grantees under the 8th article, the government directs me to present the declaration in question, not less essential to its own interest than to the honor of the King of Spain, since His Majesty would be subjected to the most unworthy imputations, if, under the circumstances, a claim should be made by his subjects, or those holding under them, founded upon the alleged validity of these grants.

To suppose that your excellency is not in possession of all the facts in relation to this subject, would be a reflection on the zeal and fidelity of the representative of Spain in the United States, which I would be unwilling to cast upon any officer of his Majesty's government. I do not, therefore, send you copies of those documents, which shew explicitly that, prior and subsequent to the signature of the treaty, it was expressly understood by the negotiators of that instru-

ment, that the 8th article, written by the Spanish Minister himself, excluded these grants. In fact, when the lands of Florida were ceded, with an express stipulation that the claims of the citizens of the United States upon Spain were to be paid out of the proceeds of the sale of them, to suppose that the Spanish government had disposed of the whole, or the greater part of them, in gifts to its subjects, and will insist upon the validity of those gifts, is to suppose it capable of an act of notorious and deliberate perfidy. The government of my country considered that the treaty became, from the moment of its signature by the Chevalier de Onis, and the ratification of the United States, as binding upon the honor and good faith of the Spanish King and nation, as it would be after the ratification. Although I do not understand that this position is, or will be contested by Spain, it may not be useless to shew its strength fully to the view of your excellency. The words of his Catholic Majesty, in the full power given to Mr. Onis, the original of which was delivered to the American government before the signature of the treaty, are, after authorizing Mr. Onis to treat, negotiate, and conclude, a treaty, whereby past differences may be adjusted, and a firm and lasting peace established between the two governments, "Obligandonas y prometemos en fé y palabra de Rey que aprobaremos, ratificaremos, cumpliremos, y paremos observar y cumplir inviolablemente quanto por vos fuere estipulado y firmado para lo qual os concedo todas las facultades y plenos poderes en la forma mas amplia que de derecho se requieren." If the usage of nations, which requires the ratification of the sovereign for the full confirmation of a treaty could create any doubt of the import of language so unqualified and explicit, there is nothing dubious or uncertain in the extent of the obligation resting upon him, by the signature of his ministers, vested with such full powers. Upon this principle, the following quotations from Vattel and Martens are decisive authorities: "Sovereigns treat together by the agency of their attorneys or their mandatories, clothed with sufficient powers; they are commonly called Plenipotentiaries. All the rules of the law of nature, concerning things performed by commission, are here applicable. The rights of the agent are defined by the authority given to him. From this he must not depart; but whatever he promises *within the terms of his commission*, and *according to the extent of his powers, is binding upon his constituent.*" "At this time, to avoid all danger and difficulty, Princes reserve to themselves the right of ratifying that which has been concluded by their ministers in their name. The full power is merely a commission cum libera. If this commission were to have its full effect, it should be given with the utmost circumspection. But, as Princes can be constrained to fulfil their obligations only by force of arms, the custom has arisen of relying upon their treaties only after they have sanctioned and ratified them. Whatever the minister has concluded remaining ineffectual until the ratification of the Prince, there is less danger in giving him a full power. But to refuse, *with honor*, to ratify that which has been concluded in virtue of a full power, the sovereign must have strong

and solid reasons for it, and *particularly he must shew* that his minister transcended his instructions." Vattel, book 2, chapter 12 § 156.

"Every thing that has been stipulated by an agent, in conformity to his full powers, ought to become obligatory, for the state, from the moment of signing, without ever waiting for the ratification. However, not to expose a state to the errors of single person, it is now become a general maxim, that public conventions do not become obligatory, until ratified. The motive of this custom clearly proves, that the ratification can never be refused with justice, except when he who is charged with the negociation, keeping within the extent of his public full powers, has gone beyond his secret instructions, and consequently rendered himself liable to punishment, or when the other party refuses to ratify." *Martens' Summary, Book 2, Chapter 3.* But why should quotations be made, to prove a principle so familiar to every man, in public or private life, that what is promised in his name, by his authority, and according to his directions, is as binding in honor and conscience, as if he had pledged himself in person? The obligation of the King of Spain, therefore, in honor, and in justice, to ratify the treaty signed by his minister, is as perfect and unqualified as his royal promise in the full power, and it gives to the United States the right, equally perfect, to compel the performance of that promise. It is well known to my government, that the Spanish government cannot allege that its minister transcended his secret instructions, or that the ratification of the United States has been refused, or that any unfair advantage was taken by the United States, in the negociation, or that Spain was not well aware, before hand, of the full extent of the engagements contracted by Mr. Onis. It is too well known to be denied, that the last instructions of Mr. Onis, authorized him to concede much more than he did. The government of the United States, indeed, considered the generosity and moderation of the terms to which they had acceded, as a pledge that they would be received, as in the first instance they were received, by his Catholic Majesty, and his royal council, with pride and joy. If, from the unexpected extent of the sacrifices the United States made for the purposes of conciliation, the conclusion has been drawn, that their conciliatory temper may be trifled with and abused, it is just and proper that Spain should be effectually undeceived. I am, therefore, instructed further to inform your Excellency, that, if the ratified copy of the treaty should not arrive in the United States before the first day on which the Congress of the United States meets, the President will lay before that body all the transactions relating to the treaty, and such measures will be adopted by the competent authority, as the exigency of the case may require. Whatever may be determined upon, Spain will be responsible to the United States for all damages and expences which may arise from the delay to ratify, and from the measures to which the United States may resort, to give efficacy to their rights, and that for the indemnities to which they will be justly entitled, by this violation of faith, by Spain, the United

States will look to the territory west of their present western boundary, on the gulph of Mexico.

To this proposal, made in the spirit of moderation, of generous forbearance, and with the earnest desire of sincere amity with Spain, I am instructed to require an immediate, explicit, and unequivocal, reply. Should this reply not be made before the tenth of the current month, I give formal notice to your Excellency, that the proposal will be considered as rejected, and the proper communication will be made to the President of the United States.

I renew to your Excellency, whom may God preserve, the assurances of my distinguished consideration.

[Signed] JOHN FORSYTH.

[TRANSLATION.]

The Duke of San Fernando and Quiroga to Mr. Forsyth.

To the MINISTER PLENIPOTENTIARY
of the United States of America.

SIR: Having had the honor to lay before the King, my master, the contents of the note which you addressed to me on the 2d instant, his Majesty, whose justice and impartiality are so universally known, having examined the principal points embraced therein, has commanded me to answer you as follows:

The official communications addressed to you by Don Manuel Gonzales Salmon might exempt me, it would seem, from all further discussion of the subject in question; inasmuch as his Majesty, actuated as well by the claims of his honor and duty as by a uniform spirit of justice and conciliation towards the United States, and pursuing the example of his august predecessors, who, at an early period, and to promote the very establishment of the American government, gave such abundant proofs of similar dispositions, had determined, upon mature reflection and deliberation, to send a minister to that government, who, after requiring and giving the necessary explanations, might terminate this affair; and, as neither the actual state of the question, nor what you have been pleased to communicate to me, presents any motive for changing a resolution so deliberate and so just, and which the honor of his Majesty also forbids, there appears to be a still more urgent motive to confirm it.

With this answer I might leave you completely satisfied; but I especially take leave, with the permission of the King, my Lord, to reply to some of the points treated of in your note, with the brevity and precision which characterize me; and because you state that you have not yet received an explanation of the delay in ratifying the Treaty, and attribute it to the difficulties arising out of its eighth article. You will permit me to remark to you, that this delay does not manifest that want of good faith, or the artifice which is indirectly insinuated; it is rather the declaration now demanded by you, and previously announced by your Government, after having signed and ratified the

Treaty; a declaration which, by annulling one of its most clear, express, and conclusive articles, seemed much more likely to give room for a similar charge, in opposition to yours.

If your Government, as you are pleased to state to me, really believed that the Treaty, from the moment it was signed, became equally obligatory on Spain as it was on the United States, under whose immediate inspection it was formed, signed, and ratified, you will permit me to remark, that, whether we consider that point, or weigh the authority of authors, cited by you in support of your opinion, the deductions from them, and the weight of many others I now forbear to adduce, as it might seem to offend your illustration, militate against you. But even fancying them for a moment, without ever admitting them, the very authorities which you deem conclusive, in relation to a treaty, signed, but not ratified, are opposed to you, or require, still more forcibly, that an agreement, concluded, signed, and solemnly ratified, as the present one has been by your Government, should be subjected to a due investigation. And if, notwithstanding this, declarations are required, at the moment of its solemn conclusion, and before its ratification by the other party, which totally annul one of its most clear, precise, and conclusive articles, without the sanction of a secret agreement authorizing the same, how should it appear strange, that His Majesty, while yet unfettered by its stipulations, might and should demand explanations, rendered necessary by so unlooked for a proceeding? In the transaction of settlements, or agreements, between nation and nation, the solemn act which consummates them, namely, the ratification, would become wholly illusory, if the principles, which it is now, in vain, attempted to establish, were to be admitted. I again repeat, that the very authorities cited by you, literally declare, as I have already remarked, that the Sovereign, for strong and solid reasons, or if his Minister has exceeded his instructions, may refuse his ratification, [*Vattel, Lib.* 2. *Cap.* 12.] and that public Treaties are not obligatory until ratified. [*Martens, Lib.* 2, *Cap.* 3. See note.]

No less erroneous, and even unprecedented, is the judgment, or consequence, you draw from the instructions, which you suppose to have been given to His Majesty's Minister, for the conclusion of this Treaty. Truly, it would be the first time that a diplomatic communication, professing to be thoroughly and minutely acquainted with these instructions, should cite them as being perfectly well known. The respect due to the King's negociators will not, for a moment, allow me to believe they have failed in their obligations, by violating secrecy; nor will the high consideration I entertain for your Government permit me to think it capable of having employed the oblique and vicious means that such information must imply; it is, therefore, wholly impossible for me to admit your assertion on this point.

But, dismissing so unpleasant a discussion, and desiring to express to you anew the spirit of conciliation and friendship which prompts the King my master to put an end to these differences, as I declared to you in the beginning of this note, I am enabled to assure you, that

it is a subject of great regret to His Majesty, that such weighty considerations should have hitherto obliged him to defer the ratification of the treaty concluded by his Minister to the federal government. These considerations, already stated by Don Manual Gonzales Salmon, on communicating to you his Majesty's determination, acquire additional force when we find that intelligence has been received, through the medium of general information, newspapers, and correspondence, that an expedition directed against the province of Texas has been tolerated or protected, and other acts committed, within the limited, but unexpired, term assigned for the ratification, which, as you will be duly informed, have justly called for the remonstrances of his Majesty's chargé d' affaires to your government. Notwithstanding his Majesty has uniformly evinced a desire to maintain a perfect union and amity with the American government, yet, to render these stable and permanent between two nations, who, under favor of a state of amity, are endeavoring to settle their differences, it is necessary they should be based upon reciprocal utility and confidence. In the indulgence of these noble and generous sentiments, his Majesty confidently looks to the attainment of this desirable result. This was the object of the treaty; an object unfortunately not attained, notwithstanding the enormous sacrifices which the King, my master, condescended to make. In these feelings and dispositions, his Majesty still perseveres, by adopting a measure judged indispensable: that of sending to the government of the United States, as will promptly be done, a person possessing his entire confidence, and who, by smoothing the obstacles, or removing the difficulties, which have hitherto opposed the accomplishment of his beneficent intentions, may fully convince the federal government of the frankness and loyalty, as well as of the honor and dignity which it is his Majesty's desire to maintain in his relations of amity and union with that government.

Whereupon, I renew to you my sincere respects, and I pray God to preserve you many years.—Palace, October 8, 1819.

[Signed] The Duke of SAN FERNANDO and QUIROGA.

No. 3.

Extracts of a letter from Mr. Rush to the Secretary of State, dated London, 13th September, 1819.

"Since my second despatch, written on the fourth of this month, I have had an opportunity of seeing Lord Castlereagh. I gladly took advantage of it to introduce, as an immediate topic, the important subject to which that despatch related.

"I remarked, that it appeared, after all, that our Treaty at Madrid was not ratified. "Why, so it seems," replied his Lordship. "Our inclinations, however, as I trust you must be satisfied, after what has passed between us, would have pointed to a different issue; and I can only add my wish that it had been different." He then said, that, from Sir Henry Wellesley's communications, he was led to infer, that the refusal to ratify had not been absolute, but that the Government of Spain merely desired further explanations. I replied, that Mr. For-

syth had, I was sure, tendered every necessary explanation; but it had not been listened to."

"What the pretexts of Spain may have been for this fresh act of injustice and procrastination, I am not, in the slightest degree, informed. A copy of the provisions of the Treaty itself, I have never seen. But it occurs to me, at this juncture, to say, what may seem superfluous, but what the importance which the subject now assumes, at all points, prompts me to bring into view, namely, that I learned, through undoubted sources, that Mr. Onis, when here, affirmed, in the most unequivocal manner, that, in signing the Treaty, he stood strictly and fully justified by his instructions."

Extract of a letter from Mr. Rush to Mr. Adams, giving the substance of a conversation with Lord Castlereagh.

London, *September* 17*th*, 1819.

"His lordship (Castlereagh) took this occasion to advert to the subject of the Floridas. It was for the first time, without some previous invitation on my part, and I witnessed, with a proportionate satisfaction, his spontaneous approach to it. He did so, as I saw, in order to enforce, by corroborations, his former communications to me. He took from his table a packet of Sir Henry Wellesley's despatches from Madrid. From two of these he read passages going to show that that ambassador had made known to the Spanish cabinet the wishes of the British court that the ratification of the treaty should take place. One of the despatches was dated on the sixth of June, the other on the 6th of July. They both imported a belief, founded on the state of things then existing, that the treaty would be ratified. His lordship also read to me a passage from one of his own despatches to Sir Henry, in which an unequivocal opinion was expressed, that the true interests of Spain would be best promoted by a ratification. I think that this despatch was dated on the twenty-first of July.

He asked me if I had heard, during the summer, of an intended visit of a "Mr. Toledo" to London. I replied that I had. He said that he had too, but that he had never arrived. The Spanish government knew too well the opinions of this, to imagine that the propositions with which Toledo was said to have been charged, could ever be countenanced. These, he continued, were, to ask a loan of money to pay the claims recognized by the Treaty, and also to enquire if Great Britain would consent to make common cause with Spain, in the event of a rupture between the latter and the United States. His lordship then distinctly stated, that the willingness of the British court to accede to our coming to the possession of the Floridas, might be inferred from the indirect offer which it had made, two years ago, to mediate between the United States and Spain, which we had declined. This offer, he observed, was made on the natural supposition that the cession of those provinces to us would have formed the basis of the negotiation; and to such a basis Britain was prepared at that time to assent."